DOMINIONS
SOUTH AFRICAN
Nº 7.
CONFIDENTIAL

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PART I

BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND

(A) TRANSFER TO THE UNION OF SOUTH AFRICA

(B) GENERAL

CORRESPONDENCE AND PAPERS
(1937-1939 INCLUDING ITEM Nº 96. DATED 1940)

CLOSED UNTIL 1970

PART II

SOUTHERN RHODESIA

CORRESPONDENCE AND PAPERS
1937-1939

7

IN CONTINUATION OF DOMINIONS (SOUTH AFRICAN) NO. 6.
CONTINUED BY DOMINIONS (SOUTH AFRICAN) NO. 9.

DO 116/7

/4

2

DOMINIONS
(SOUTH AFRICAN)

No.7

Confidential

PART I

BASUTOLAND, THE BECHUANALAND PROTECTORATE

AND SWAZILAND

(A) Transfer to the Union of South Africa

(B) General

Correspondence and Papers

(1937 - 1939 including item No.96 dated 1940)

PART II

SOUTHERN RHODESIA

Correspondence and Papers

(1937 - 1939)

(In continuation of Dominions (South African) No.6; continued by Dominions (South African) No.9.)

PUBLIC RECORD OFFICE, LONDON

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PUBLIC RECORD OFFICE, LONDON

PART I

Correspondence 1937 - 1939

relating to

BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND

(A)

Transfer of the High Commission Territories to the Union of South Africa

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Y. 6/25. 18

No. 1.

PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 1.27 p.m., 18th June, 1937.)

No. 111. 18th June. Following is text of statement given prominence in *Rand Daily Mail* here to-day.

Begins.—London, Thursday. During the last two days General Hertzog has made a round of farewell calls and has had long conversations with Mr. Malcolm MacDonald, Dominions Secretary, regarding the future of the Protectorates.

Interviewed General Hertzog declared that he was very much disappointed with the results of the conversations adding: " I fear that unless a different attitude is taken consequences are going to be of most unpleasant character."—*Ends.*

S.A.H.C. Territory—(C.26420/138).—24.

Y. 6/21.

No. 2.

~~PROOF.~~

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 2.37 p.m., 1st July, 1937.)

[*Answered by No.* ~~Y. 6/21.~~ 3.]

(Paraphrase.)

No. 116. 1st July. Secret. General Smuts asked in course of a talk yesterday if I had had any information from you which would throw light on General Hertzog's statement about the Territories. I told him I understood that there had been nothing in your conversation to suggest that General Hertzog would make a statement of that kind. Hertzog's utterance is deplored by General Smuts. He hoped and thought it had no special significance but was merely another instance of Hertzog's unfortunate habit of thinking aloud.

Smuts felt for his own part that every effort must be made to prevent Territories becoming a source of ill-feeling between our two Governments. It seemed to him the only issue left which could possibly have that effect. He recognized our difficulties but still had some hopes that it might be possible before long to make a beginning with Swaziland to which territory the Union felt that they had a special claim for historical reasons. I pointed out that we had the same difficulties in respect of Swaziland as in respect of the other two Territories and added that during my forthcoming visit I should doubtless get some light on native feelings.

I think we can rely on Smuts being a moderating influence if, when the Prime Minister returns, such influence is required.

S.A.H.C.-Territory—(C.26420/143).—24-

Y. 6/21.

No. 3.

PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 10 p.m., 2nd July, 1937.)

(Paraphrase.)

Secret and Personal. Your telegram No. 116 1st July*. I was interested to have account of your talk with General Smuts and should be glad if you would as you propose, during your forthcoming visit to Swaziland, study attitude of the natives towards transfer question as closely as possible (but without of course appearing to do so).

In this connexion it is of interest that, while Hertzog was in this country, some South Africans in touch with him told us in private conversations that they regarded Swaziland in particular as ripe for transfer and that Sobhuza was not averse to coming under the Union and if he were given the slightest encouragement by the Swaziland Administration to do so might even apply for this. Doubtless we need attach no importance to these obviously inspired statements, but one would like to know whether there is any foundation for the implication which they contain that the attitude of the natives in Swaziland differs somehow from that of the natives in the other two Territories towards the question of transfer.

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* No. ~~Y. 6/21~~. 1.

S.A.H.C. Territory—(C.26420/144). 24.

Y. 6/24.

No. 4.

PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 1.10 p.m., 6th July, 1937.)

No. 117. 6th July. Following is Johannesburg *Star's* version of General Hertzog's reference to the Territories in the course of statement to the Press on landing yesterday. *Begins.*—Asked if he would amplify his statement before sailing from England that he was very disappointed with the results of his talks with Mr. Malcolm MacDonald on the future of the Territories and that he feared that unless different attitude was taken consequences were going to be " of a most unpleasant character " Prime Minister said that he was not prepared at that stage to make a full statement but that he proposed doing so from Pretoria shortly.

Informed that there had been ~~(corrupt group)~~ speculation in the Union on the subject General Hertzog said that it was clear that further statement on the Union's standpoint was necessary and that such a statement was also expected by the people of Great Britain.

It was true that the results of his conversations with the Dominions Secretary on the Territories question were unsatisfactory. People in Great Britain did not have the same understanding of the matter as the people in South Africa who were the actual neighbours of the Territories. There was a good deal of misrepresentation in the United Kingdom on this question (corrupt group) statements were frequently made and all too often the question served political purposes. The interests of the Protectorates were closely knitted with those of the Union and if at any time Parliament found it necessary seriously to consider the Union of South Africa's future relationship with the Protectorates the result on the absence of a proper understanding might be most unfortunate for the Protectorates themselves.—*Ends.*

According to the ***Rand Daily Mail*** report he also said that it was likely that the question of transfer of the Territories may be brought up seriously at the next session of Parliament.

S.A.H.C. Territory—(C.26420/145). 24.

Y. 6/23.

No. 5.

PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 2.30 p.m., 6th July, 1937.)

No. 125. Please arrange for following personal message from me to be delivered to General Hertzog as soon as possible on his arrival at Pretoria.

Begins.—I was very glad to hear of your safe arrival and hope that you have had a restful and refreshing voyage.

Press reports you as saying at Cape Town that you proposed to make a full statement in Pretoria later on the question of the High Commission Territories. I realise great interest which will have been aroused in Union regarding this matter.

You will remember that towards the end of the discussion which I had with you and Havenga here on 16th June it was agreed that, after you had returned to South Africa, I should send you a letter setting forth the United Kingdom Government's position as to the best means of carrying out the Hertzog-Thomas Agreement by which we stand to the full. I proposed that this would be in the form of a draft and you agreed that you would let me have your comments on it. I was then going to consider these to see whether out of the draft we could produce for publication a statement which would be mutually helpful.

I am already engaged on the preparation of the draft of such a letter which I propose to ask Clark to discuss with you. I very much hope that you will feel able to await this draft letter before decision is reached as to issue of any fuller statement and as to its terms.

My reason for making this suggestion is that I fear there is a danger of newspaper and other public controversy making satisfactory outcome of our further discussions on this very important question more difficult. I feel sure that you will agree that this danger should, if possible, be avoided.—*Ends.*

S.A.H.C. Territory—(C.26420/142). 24.

Y. 6/25. No. 6. PROOF

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 12.53 p.m., 7th July, 1937.)

No. 119. 7th July. My telegram of 6th July No. 117*. On arrival at Bloemfontein en route to Pretoria General Hertzog in reply to a question regarding the Territories at a Press interview gave what is stated to be a considered reply. Following is text as reported in the Press.

Begins.—It is clear to me that in British circles in England the question of transfer is being played with in a manner which does not keep adequate account with the right of the Union to demand that transfer shall not be delayed longer and that the Union's request thereto be fulfilled.

The Union's request on this matter was directed to the British Government by me as far back as 1925, and in 1926 on the occasion of the Imperial Conference it was discussed by me with British Ministers concerned. It was then represented to me that the time for this was not propitious *inter alia* because a general election there was imminent. I then gave assurance that I was unwilling to see the British Government involved in difficulties at the election because of this question and that I was therefore prepared to adopt a waiting attitude with my request for the transfer until the elections were over.

The election came and went and since that time three Imperial Conferences were held on occasions each of which the question was brought up by me with responsible Ministers. Both in 1935 and now I emphatically pointed to the necessity for a speedy transfer if ruin (*ondergang*) of numbers of European inhabitants in some Territories concerned were to be prevented.

In 1935 the then British Minister concerned with the consent of his colleagues gave me a written assurance which was later made public and in which the prospect was set out that transfer would possibly occur after a year at least so far as one or two of the Territories are concerned. Moreover I was told at the time that in order to expedite and assure transfer as much as possible instructions would be given to British officials entrusted with the administration of the Territory to use such influence with the natives under their jurisdiction as would advance the establishment of a disposition towards the Union that would facilitate the achievement of the said purpose.

To my sorrow I must now learn that no such instructions had been given and that it will still take a long time before transfer will be possible. As the reason why the promised instructions had not been issued I was informed that if this were done the Government would be accused of using the officials in the Territory for exercising improper compulsion on the natives under their control!

I need not enter here into the objections and differences of opinion advanced by me against all this. Suffice it for me here to focus attention on the serious departure of this latest reply from that of two years ago. That this action of the British Ministers so much in conflict with what was projected in 1935 is due to nothing so much as to political considerations in connexion with the ballot box is sufficiently clear from the reasons advanced as to why the promised instructions had not been given to the officials in the Territory. When it is taken into consideration moreover how much it has become an answer of almost fixed custom in [illegible] whenever an Imperial Conference takes place and at the least whisper of the transfer of the Territories the opportunity is taken of formally raising a voice of protest against transfer, then official concessions to political considerations in England can be better understood in South Africa but no better appreciated, it is obvious that the matter cannot be left at this. The Union's right to the transfer of the administration of the Territories to it is indisputable. That the time for transfer to the Union has already expired was conceded two years ago. That it is therefore the duty of Great Britain to see to it that everything is done to advance the transfer which she undertook under the South Africa Act or to which she thereby agreed and that her officials shall be instructed to act in the spirit of her obligations nobody shall deny.

In these circumstances it is inconceivable for me to believe that there should be much further delay in the transfer of the Territories or that the Union Government should be compelled to have recourse to the South Africa Act to request the King by means of a decision of Parliament to accede to the transfer.

The consequences both to Great Britain and to South Africa that will follow from such a step are so incalculable that for the time being I am not prepared to accept that reply just given by the British Minister concerned is final. However disappointing that reply may be I still remain hopeful that the matter will soon be solved in friendly co-operation.—*Ends.*

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* No. ~~Y. 6/24.~~ 4.

S.A.H.C. Territory—(C.26420/140). 24.

Y. 6/26. No. 7. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 10.33 a.m., 7th July, 1937.)

(Paraphrase.) [transmitted by No. 8]

No. 120. 7th July. Following from Smith.

Begins.—Your telegram of 6th July No. 125*. In view of the nature of Hertzog's statement yesterday to the Press at Bloemfontein (see my telegram of to-day†) unless I receive further instructions I shall not communicate your message to him. I understand that Hertzog who arrived here this morning will leave for his farm at noon.

Your telegram and this reply have been repeated to the High Commissioner in Swaziland.—*Ends.*

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* No. ~~Y. 6/25.~~ 5.

† No. ~~Y. 6/25.~~ 6.

S.A.H.C. Territory—(C.26420/T41). 24.

Working Copy

Y. 6/26. No. 8. PROOF. 12

TELEGRAM

to

HIGH COMMISSIONER IN BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 1.30 p.m., 7th July, 1937.)

(Paraphrase.)

No. 126. Your telegram No. 120, 7th July*. Following from Machtig for Smith.

Begins.—Message in Secretary of State's telegram No. 125 of 6th July† should be communicated to General Hertzog immediately: please send it to him at his farm if he has left Pretoria. You should indicate in communicating it, that time of despatch of telegram in question shows that it was sent before the report of the statement made by him at Bloemfontein could have reached London.—*Ends.*

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* No. ~~Y. 6/26.~~ 7. † No. ~~Y. 6/23.~~ 5.

S.A.H.C. Territory—(C.26420/139). 24.

P.Q.Y. 6/2. No. 9. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 10TH JULY, 1937.

South Africa (High Commission Territories).

1. CAPTAIN PETER MACDONALD asked the Secretary of State for Dominion Affairs, whether he has seen the announcement by General Hertzog regarding the High Commission territories in South Africa; and whether he has any statement to make on the matter?

THE SECRETARY OF STATE FOR DOMINION AFFAIRS (MR. MALCOLM MACDONALD): Yes, Sir. I have seen the Press Reports of General Hertzog's statement. Clearly, there has been some misunderstanding with regard to this matter. General Hertzog is reported as saying that when he raised the question of transfer of the Territories in 1926, he was told by the responsible Ministers here that the time was not then propitious *inter alia* because of the imminence of a General Election in this country. There is no record here to this effect. Indeed, no such reason could have been given, because no election was pending at that time, and none, in fact, took place until nearly three years later.

As regards General Hertzog's statement that in 1935 he was given a written assurance in which the prospect was set out that transfer would possibly occur after a few years at least so far as one or two of the Territories are concerned, this, of course, refers to the agreement which was reached between General Hertzog and my predecessor that year and which is embodied in the *aide-mémoire* published as Cmd. 4948. The *aide-mémoire* states that:—

> "the policy of both Governments for the next few years should be directed to bringing about a situation in which if transfer were to become a matter of practical politics, it could be effected with the full aquiescence of the populations concerned."

With this end in view it was proposed that the closest possible co-operation should be established between the Union Government and the Administration of the Territories. In July of last year General Hertzog concurred in my informing the House that there was no agreement or understanding that the transfer of the territories, or any of them, should take place in any specified time, and that he agreed with the view of His Majesty's Government in the United Kingdom that it was essential to the success of the policy of co-operation that it should not be hurried, and that until the policy had had a fair trial any predictions as to the period within which it might be expected to succeed in bringing about the situation which the two Governments had in mind when the *aide-mémoire* was issued must necessarily be in the nature of conjecture.

I am sorry that General Hertzog should feel that there has been a failure on the part of His Majesty's Government in the United Kingdom to carry out an undertaking given in 1935 regarding the instructions to be sent to the officials in the Territories for implementing this policy. Here, also, there must be some misunderstanding, for, as was stated by my predecessor in the House at the time, the instructions to the High Commissioner in connection with the agreement of that year were shown to General Hertzog before they were sent, and he concurred in their terms.

I had two conversations with General Hertzog on this subject while he was in this country recently, at the second of which Mr. Havenga was also present. General Hertzog pressed the view that the process of transferring the Territories to the Union should begin in the near future. I explained that the situation described in the *aide-mémoire* had not yet greatly altered. I made it clear that His Majesty's Government in the United Kingdom adhered without any qualification to the terms of the agreement which had been reached between him and my predecessor, and I undertook to consider carefully what further steps were now practicable to implement that policy. At the conclusion of our talks General Hertzog and I agreed that after his return to South Africa we should communicate further with each other regarding this.

His Majesty's Government in the United Kingdom are determined to carry out loyally the policy which was agreed two years ago, and I share the hope which General Hertzog has expressed that the question may be solved—in the best interests of all the peoples concerned—in friendly co-operation.

MR. ARTHUR HENDERSON: Will not a very serious constitutional position arise if General Hertzog carries out his threat to take action in the South African Parliament, and, in view of the position under Section 151 of the 1909 Act, will not the Dominions Secretary immediately get into touch with General Hertzog in order to avoid future discord or trouble?

MR. MACDONALD: As I said at the end of the answer which I have just given, I am going to get into touch with General Hertzog. It was agreed that I should communicate with him further regarding this whole question. I must leave it at that.

S.A.H.C. Territory—(C.26586/159). 24.

MR. ATTLEE: I take it that there is no question of handing over the Protectorates against the will of the people?

MR. MACDONALD: We shall, of course, adhere to the pledge that was given that the transfer will not take place until the local populations have been consulted.

MR. LENNOX-BOYD: As statements have been made in the papers issued on different dates, and as a charge of unkept promises has been preferred, will my right hon. Friend consider the advisability of publishing in a White Paper all the relevant documents?

MR. MACDONALD: I will certainly consider that possibility. I am not sure that anything that has not been published before requires publication now. It might be convenient to bring all the documents together. All I can say is that I will consider it.

CAPTAIN MACDONALD: Is my right hon. Friend satisfied that these reports of the speech made by General Hertzog are authentic, and that the speech was made without his communicating, as he said he would, with the Dominions Office first?

MR. MACDONALD: General Hertzog did not give any undertaking that he would communicate to me any statements that he wished to make. I do not want to suggest that there has been any breach in that respect. The agreement merely was that I should first communicate with him regarding possible further steps for carrying out the policy. So far as the statement which General Hertzog is reported to have made is concerned, I can only say that I have seen only the newspaper reports so far.

MR. CREECH JONES: In view of the reflection on British administration in the Protectorates, would it not be well for a statement to be made giving up-to-date information as to the policy of His Majesty's Government with regard to the economic and social development of the Protectorates; and, further, would it not be well that the South African Government should understand clearly that neither the natives nor this House will consent to the transfer of these Protectorates as long as the principle operating in native legislation is non-equality as between black and white in their own territories?

MR. MACDONALD: With regard to the first part of the Question, there are annual reports published regarding our policy in the Territories. They are brought out as soon as they can possibly be framed by the authorities. There is additional information with regard to the expenditure on development works in the reports of the Colonial Development Fund Committee. I think that all the information that is required is really contained in those documents. Beyond that, I do not think I could add anything to the statement I have already made.

MR. DAVID GRENFELL: In view of the Minister's statement that he was pressed by General Hertzog to expedite the negotiations, and in view of General Hertzog's statement in South Africa reporting the conversations that have taken place in this country, is it not necessary that the House should be placed in possession of all the relevant information before a situation arises which might be very difficult indeed for this country? Is it not now urgent that this matter should not only be made the subject of a White Paper, but of a possible discussion in the House?

MR. MACDONALD: I have promised to consider the question whether any further publication of documents is necessary. I hope that no situation which is very difficult is going to arise.

LIEUT.-COMMANDER FLETCHER: Does the phrase " consultation with the people of the Protectorates " mean that their consent must be obtained before the transfer takes place, or is it meant to convey that they will be consulted, but that their wishes will not necessarily be accepted? Is it the case that the recent conversations which the right hon. Gentleman had with General Hertzog were put in writing and a note of them sent to General Hertzog and agreed by him?

MR. MACDONALD: With regard to the first part of the question, His Majesty's Government's pledges in the matter have been set down in writing. They are well known, and I do not think I need add to them. We shall adhere to those pledges. With regard to the second part of the supplementary question, as my answer said, before the letter containing the instructions was sent to the High Commissioner, General Hertzog saw the letter.

MR. ATTLEE: Will the right hon. Gentleman answer the specific question as to the meaning of " consultation "? What does " consultation " mean?

MR. MACDONALD: " Consultation " means consultation. I do not think I can add to that.

MR. ATTLEE: That is not really good enough. Will the right hon. Gentleman say whether these people are to be transferred against their consent, or whether their consent is to be obtained before transfer? It is a perfectly clear point.

MR. MACDONALD: I do not want to escape any point at all. I think the best answer I can give is that the matter rests in the hands of this House. There are the two pledges first with regard to consultation with the local populations, and, second, that transfer cannot take place until Parliament has been given an opportunity of expressing its views. It will, therefore, be for Parliament to express its views as to what " consultation " means when the occasion arises.

MR. ATTLEE: Will there be an opportunity before the House rises of having this discussed so that we can be clear what is happening?

SEVERAL HON MEMBERS *rose*—

MR. SPEAKER: I understand that the matter is to be discussed in the House.

Y. 6/10. No. 10. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 13TH JULY, 1937.

South Africa (High Commission Territories).

44. MR. ARTHUR HENDERSON asked the Secretary of State for Dominion Affairs whether he is aware of the recent announcement of General Hertzog in reference to the British-African protectorates; and whether he will make a statement?

55 and 56. MR. RILEY asked the Secretary of State for Dominion Affairs (1) whether he is aware of the announcement by the Prime Minister of the Union of South Africa on 6th July in which General Hertzog stated that, unless the British Government took steps to transfer the native Protectorates of Bechuanaland, Swaziland, and Basutoland to the Union Government, he would appeal to the King in Council; and whether he has any statement to make on the matter referred to;

(2) whether he is aware of the statement by General Hertzog at Capetown, on 6th July, that the British Secretary of State for the Colonies, Mr. J. H. Thomas, in 1935 gave General Hertzog a written assurance, which was later made public, that the transfer of the Protectorates, or at least one or two of the territories concerned, would probably take place in a few years; whether any such assurance was given; and, if so, was it given with the authority of the Government?

57. MR. LUNN asked the Secretary of State for Dominion Affairs whether he was consulted by General Hertzog as to the statement which he proposed to make on his return to South Africa on the subject of the Protectorates?

58. MR. PALING asked the Secretary of State for Dominions Affairs whether he accepts the view expressed in the recent speech of General Hertzog that it is the duty of Great Britain to see to it that everything be done to advance the transfer of the Protectorates?

60 and 61. LIEUT.-COMMANDER FLETCHER asked the Secretary of State for Dominion Affairs (1) whether the pledge to the Native populations of the South African Protectorates that they will be consulted before transfer to the Union of South Africa implies that should they express themselves as hostile to transfer it will not take place; and whether his recent conversations with General Hertzog in London on this question were embodied in a memorandum and agreed by General Hertzog;

(2) whether he has studied recent pronouncements by members of the Government of the Union of South Africa on the subject of treatment of natives in South Africa, and also recent legislation by the same Government on this subject; and, where such legislation and pronouncements do not accord with the British Government's principle of trusteeship for native races, will such discrepancies be taken into account when considering the question of transfer of the South African Protectorates?

62. MR. SORENSEN asked the Secretary of State for Dominion Affairs whether he has any further statement to make respecting the recent statements of General Hertzog and the relationship of the Union of South Africa to Great Britain?

MR. M. MACDONALD: I was not consulted by General Hertzog as to the statements regarding the High Commission Territories which he made on his return to South Africa, nor were my conversations with him when he was in London embodied in an agreed memorandum. The arrangement was, as I explained in reply to questions last Friday, that I should communicate with him on his return concerning the general position and as to possible further practical steps for carrying out the policy agreed upon in 1935.

With regard to the reference to the Native legislation recently passed in the Union of South Africa, it would not, of course, be proper for me to discuss Native policy in the Union. So far as the High Commission Territories are concerned, I would remind the House that the conditions on which it was contemplated that transfer could be effected are laid down in the Schedule to the South Africa Act, 1909. I have no reason to think that the Union Government would not be ready to maintain the general scheme of the Schedule.

The other points raised in the questions are covered by the replies which I gave in the House last Friday, and I have no further general statement to make.

MR. A. HENDERSON: In view of the urgency of this matter, may I ask whether the right hon. Gentleman has communicated with the Union Government of South Africa with regard to the complaint of General Hertzog at the beginning of last week, and, if so, has any reply been received?

MR. MACDONALD: I made a statement in regard to General Hertzog's interview with the Press on Friday, and that statement was communicated as soon as possible to the people in South Africa. With regard to future policy, the communication which I promised to send to General Hertzog is being prepared at the present moment and will be sent as soon as possible.

MR. LUNN: In view of the fact that the Dominion Premiers were here for a very long time during this year, would it not have been better that this matter should have been discussed with General Hertzog when he was in this country rather than leave him to make such a statement when he got back to South Africa?

MR. MACDONALD: I made it clear in my statement that I had a long conversation with General Hertzog when he was in this country.

MR. MAXTON: Why did you not make the position clear?

LIEUT.-COMMANDER FLETCHER: Has the right hon. Gentleman's attention been called to the discrepancy between his own statement that consultation with the natives is required before transfer, and the statement of the Government spokesman in another place that the acquiescence of the natives is necessary before transfer can take place? Will he state which of these two Government statements is authoritative, namely, that consultation only is necessary, which does not involve the consent of the natives, or that acquiescence is necessary, which does involve the consent of the natives?

MR. MACDONALD: If the hon. and gallant Member will study the records of the discussion in the House of Lords I think he will find that there is no discrepancy between what was said in that place and what was said here. His Majesty's Government stand by the pledges regarding consultation with the natives and the Europeans in the Territories, which have often been repeated in this House.

LIEUT.-COMMANDER FLETCHER: Is it not the case that the Government spokesman in another place directly said that acquiescence was necessary?

MR. SPEAKER: We cannot go into that. The Minister in this House has given the answer to the question.

Working Copy.

Y. 5/53. No. 11. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

GENERAL J. B. M. HERTZOG (PRIME MINISTER OF THE UNION OF SOUTH AFRICA).

MY DEAR GENERAL, Downing Street, S.W.1. 30th July, 1937.

I enclose the extract from Hansard reporting verbatim the reference which I made in the House of Commons yesterday evening to the question of transfer of the Territories. I do not suppose that the reports which will appear in the South African newspapers will be quite verbatim, and was anxious that you should see exactly what I said.

As I expect Sir William Clark has told you, I hope to be able to send you the fuller official letter on the question in the near future.

I hope that you are keeping well, and spending time enjoying yourself on your farm so as to recover from your strenuous summer in England.

With kindest regards,

Yours, &c.,

MALCOLM MACDONALD.

Enclosure in No. 11.

EXTRACT FROM HOUSE OF COMMONS OFFICIAL REPORT, 28TH JULY, 1937.

MR. MACDONALD

* * * * * * * *

That brings me to say a few words on the question of the possible transfer of the government of the Territories, or of one or other of the Territories, from the United Kingdom to the Union of South Africa. That question has raised a great deal of discussion and of controversy, and I should like to try to set the problem in its true perspective. First, do not let us forget what has been done by this House in the past. In 1909 Parliament passed the South Africa Act, and there is contained in that Act a certain Section—Section 151—which refers to these three Territories. I will read the Section:

> "The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act."

The Schedule is a very long document, and contains important provisions regarding the administration of, and legislation for, the Territories if transfer should take place. That Section 151 and its Schedule remain a part of the Act.

LIEUT.-COMMANDER FLETCHER: Has the Statute of Westminster any bearing upon it?

MR. MACDONALD: It has a bearing on certain parts of the Schedule, and I certainly agree that, if transfer were contemplated, the general scheme of the Schedule should be observed, and anything which is in the Schedule and which is not appropriate to the present constitutional position should be a matter for discussion, so that some other appropriate safeguards with regard to these matters could be substituted. All I say is that that Section and the Schedule attached to it remain a part of the South Africa Act. They have not been repealed; they are not going to be repealed. We must not forget that Section. We must attach proper importance to it. We have to recognize, if I may quote from a speech made by General Hertzog in 1935, that that Section has "a meaning and intention". We have to recognize that the suggestion which is being made by the South African authorities that transfer should take place, rests, in the first place, on that Section of the Act passed by the United Kingdom Parliament.

The second consideration is that that Section was passed upon a perfectly clear understanding regarding certain other matters. There were discussions on the question while the Bill was passing through Parliament, and during those discussions the responsible Minister gave two very important undertakings—first of all, that transfer would not take place until the wishes of the local populations had been very carefully considered; secondly, that transfer would not take place until Parliament had had the fullest opportunity of expressing its views. These pledges have been repeated from time to time, and the Government regard them as most solemn pledges. We abide by them

without any qualification at all. I was pressed the other day, at question time, and one or two hon. Members have tried to press me again to-day, to interpret what is meant by the phrase about " consulting the local populations, European and native ". I was pressed that I should state that that pledge meant that transfer could not take place unless the native populations consented to it. It would be improper for me to endeavour to use language regarding that pledge which would either contract the pledge or expand it. I do not think that the House need feel in the least dissatisfied with the position as it is left by these pledges. May I remind the House that there is an indication in the White Paper of two years ago, in the *aide-mémoire*, of the spirit in which this aspect of the matter is regarded not only in this country, but in the Union also. That *aide-mémoire* was approved by General Hertzog and it says that we, the United Kingdom Government, believe that the Union Government would not wish transfer to take place unless the inhabitants of the territories, native as well as European—and then there is the quotation from General Hertzog himself—" are prepared and desire to come in ".

Quite apart from that indication, the House can rest satisfied in the position, because of the second pledge which says that transfer cannot take place except after Parliament has had the fullest opportunity of expressing its views. If I were asked to suggest a sort of time-table it would work like this. If transfer were contemplated of a territory or territories, first of all consultation would take place with the local inhabitants. After that Parliament would have its opportunity of expressing its views, and it would really rest with the Government and Parliament to say whether the result of the consultation had been such as to justify transfer taking place.

Since Section 151 of the Act and these pledges were first given in the House a great deal of history has attached to this question. This is not the time to go into that history. I come straight to the Agreement of two years ago, which governs the situation to-day and I claim that the agreement which was reached between my predecessor and General Hertzog was conceived in the spirit of Section 151, plus the pledges associated with it. The White Paper says:

> " The policy of both Governments for the next few years should be directed to bringing about a situation in which if transfer were to become a matter of practical politics it could be effected with the full acquiescence of the populations concerned."

The Government are bound by that policy. The Government are in honour bound to play their part in carrying that policy out. We have been anxious, and we are anxious, to do everything that we properly can to implement that policy.

Certain suggestions have been made, and suggestions have been made in South African newspapers which have come to me in the last day or two, to the effect that the United Kingdom Government have not been wholehearted in implementing that policy during the last two years, that we failed to do something that we promised to do or that we ought to have done, in order to implement that policy. I cannot accept that view. I could go into it in detail. I could tell the House in detail what we have done—it is public property—in the last two years, and I believe that I could convince the House that we have carried out our part of the policy loyally; but I do not propose to do that. I cannot imagine anything more calculated to create unnecessary difficulties in this matter than if I were to stir up a public, long-range controversy as to what has been happening in the past.

General Hertzog and I agreed that I should communicate with him on the whole question, explaining the position of His Majesty's Government, in an endeavour to see what further steps were practicable for the carrying out of the 1935 policy to the full. We are not contemplating any new policy. We contemplate a further implementing of the existing agreed policy. That communication is now being drafted, and will be sent to General Hertzog very shortly. It will, no doubt, be followed by discussions between the two Governments, and there, I think, we should allow the matter to remain at the moment. I should only like to say this in conclusion, that neither in this country nor in the Union are these Territories regarded simply as pawns in some game between the Union of South Africa and the United Kingdom. We must consider not simply the interests of the Union or the interests of the United Kingdom. We have to consider in this matter very seriously indeed the interests of the population, both European and native, in the Territories concerned.

Y. 6/39. No. 12. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

SIR W. CLARK (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND).

(Secret and Personal.) [transmitted by Nos. 14 and 15.]

MY DEAR CLARK, Downing Street, S.W.1., 30th July, 1937.

With reference to my secret and personal telegram of the 29th July* I enclose copies of the draft of the letter to General Hertzog which has now been prepared. The draft was submitted to the Cabinet who approved generally the line adopted, but I explained that it was only a provisional draft which I proposed to communicate to you for your comments, and that I wished to have discretion to alter it in form and detail if that should seem desirable after further enquiry.

2. I need not, I think, trouble you with a long explanatory letter, but the general policy which we have now to endeavour to carry out should, I feel, be first to restore the confidence of General Hertzog and his colleagues in the good faith of His Majesty's Government in the United Kingdom, secondly to re-establish constructive co-operation, and thirdly to do anything else that we properly can to help bring about a situation in which in the words of the *aide-mémoire* of 1935 " if transfer were to become a matter of practical politics it could be effected with the full acquiescence of the populations concerned."

3. The draft letter has been prepared with these objects in view. The most important part of the letter is no doubt the suggestion for the preparation of a document or documents by the Union Government which would assist in giving the inhabitants of the Territories a true understanding of what the position would be in the event of transfer. I was interested to see from your very helpful telegram of the 15th July† that you had also arrived at the view that some action of this kind should be suggested. It will of course be for the Union Government to prepare the substance of the document but you will see that I have included in the draft letter a suggestion that they should confer with you as to the form which it should take. As the document is intended mainly for communication to the Native Authorities your advice as to its form would, I feel, be very helpful. One point for instance which I imagine it would be very desirable to bring out clearly is that the Territories would still remain under the same Sovereign. Another is that they would be administered as separate Territories, and not incorporated in the Union proper.

4. I realize that in the case of the particular points referred to in the draft letter relating to the sections of the schedule which have been affected by the passage of the Statute of Westminster more than questions of form arise, so far as you are concerned. There will, of course, have to be consultation between the Union and United Kingdom Governments over the question of modification of the terms of the schedule. I need not go into this aspect of the matter in detail at this stage but before transfer of any of the Territories could take place there would, I presume, have to be a formal agreement between the two Governments, and I hope that this would include an undertaking from the Union Government to maintain the scheme of the schedule (subject to any modifications previously agreed) and not to depart from it without consultation with the United Kingdom Government.

5. To go back to the proposed document, the question of the method of its presentation, when prepared, to the Native Authorities will require careful consideration. At the moment, I am inclined to the view that it should first be communicated confidentially by the Resident Commissioners to the Chiefs with a view to seeing what their reactions are. If, as I gather from your telegram of the 15th July, Sobhuza regards the matter mainly from the point of view of the terms which he can obtain, it may be that he would have suggestions to make on points of detail, which would have to be further discussed with the Union Government before any question of publication of the document was considered. And the same position might perhaps arise as regards the Paramount Chief of Basutoland and the Chiefs in the Bechuanaland Protectorate. It might further become desirable, assuming a situation arose where the Basuto and Bechuana Chiefs remained strongly adverse to transfer on any terms, while Sobhuza was prepared to consider transfer on terms, to confine any *published* document to the question of the transfer of Swaziland. It is, I think, very probable that the process of transfer, if and when it does become practicable, will have to be carried through in stages (indeed it is

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* Y. 6/48: not printed. † Y. 6/36: not printed.

S.A.H.C. Territory—(C.26586/147). 24.

clear that General Hertzog anticipates this) and that the process would most likely begin with Swaziland, to which the Union Government have a stronger historical claim than to the other two Territories. In the case of the Bechuanaland Protectorate we shall have to keep in mind the aspirations of Southern Rhodesia—you will remember that there is a reference to this point in paragraph 3 of the *aide-mémoire*.

6. You will see that the draft letter mentions the point about the Union Government's offer to take over, in the event of transfer, the serving officials in the Territories, including Native officials (see as to this the note of the discussion at Pretoria on the 5th November, 1935, of which a copy was enclosed in Priestman's letter to Whiskard of the 8th November, 1935*). This point was afterwards elaborated and I see from the memorandum which forms enclosure 2 to your letter to Harding of the 15th November, 1935†, that the Union Government agreed that, in the event of the salary scales of officers being higher than those drawn by Union officers of the same rank, such higher scales would be maintained, but that, if their salary scales were lower than those drawn by Union officers of the same rank, the scales would be increased so as to conform to the Union scales. This point is perhaps hardly appropriate for inclusion in a memorandum intended in the main for the Native Authorities, but I think that you might indicate to the Union Government at some appropriate stage of the discussions that you would be prepared to inform the officers of the Territories of the detailed proposals as regards their own position.

7. There is one further point which has occurred to me, i.e., whether it might not be possible to arrange that, in the event of transfer, the High Commissioner for the United Kingdom in the Union should be appointed for the time being to be a member of the Commission to be set up under Section 3 of the Schedule to the South Africa Act. I should be interested to know whether you think such a plan would be at all possible, as, if so, it might be taken up with the Union Government with a view to inclusion, if they agree, in the document which it is being suggested that they should prepare. The advantage of such a course, as it seems to me, would lie in giving the Natives confidence that the administration of the Territories would be likely to be carried on more or less on lines to which they were accustomed: and there might be a special usefulness in adopting a plan of this kind so long as the High Commissioner continued to be His Majesty's Representative in respect of any of the three Territories. If a precedent is needed, you could quote the composition of the Empire Marketing Board as an advisory body (on which the Union was included) to the Government here!

8. We had a general talk with Priestman about the whole question when the draft letter to General Hertzog was still in a preliminary stage and his comments were most useful. He will, I expect, be able to give you further explanations of our ideas and I am glad to think that he will be back in time for you to be able to discuss the matter with him. I hope that you will let me know quite frankly what your views are, as you will be better able than I am to judge of the General's possible reactions.

9. I should add that in the course of a recent after luncheon talk with Hartington and Harding, John Martin threw out a suggestion that it might be helpful if a body on which the High Commissioner and the Union Government were jointly represented could be set up to advise on any important matters affecting the Territories and the Union jointly which might come up for consideration. He made it clear that this was a personal suggestion only and did not develop the idea in detail, but they gathered that what he had in mind mainly was that such a body might be made use of in relation to proposed development schemes in the Territories, that its establishment would be a definite indication that co-operation was actually in progress, and that ultimately such an arrangement might lead to a revival of the plan for financial co-operation. The technical advice of Union experts has, of course, been utilized in connexion with the recent larger development schemes in the Territories, and it may be that, for the time being, there is not much more that can be attempted in the way of development work which would call for the consideration of a body such as that suggested. Perhaps, however, you would think over the matter and let me know your views. You should not discuss it with the Union authorities until we have had a chance to consider it further.

10. It has been suggested to me that the scope and importance of any such advisory body would be much increased if it were to embrace administrative matters as well as questions of development. This might, however, prove embarrassing and I am inclined to think that it would be better on such matters to confine ourselves to informal discussion with the Union Government whenever this seems proper. It will be remembered, in this connexion, that in the course of the discussion with the Union Minister of Native Affairs

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* No. ~~10091/277~~. 29 in Dominions (South African) No. 6.

† No. ~~10091/281~~. 31 in Dominions (South African) No. 6.

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in November, 1935 (see enclosure 2 in your letter to Harding of the 15th November, 1935), it was contemplated that the Union Department of Native Affairs should be given an opportunity of expressing their views on any important questions of policy affecting the administration of the Territories, especially as regards proposed legislation affecting Native Courts, Native Administration and the functions and status of Chiefs. I suppose that, in view of this contemplated arrangement, you will have to consider the question of letting the Union Department of Native Affairs comment on the proposed Native Proclamations for Basutoland. We should, I think, be prepared to discuss such matters freely with the Union authorities, though our responsibility and control of course remains unimpaired.

Yours, &c.,

MALCOLM MACDONALD.

Enclosure in No. 12

DRAFT.

(Confidential.)

General

The Honourable J. B. M. Hertzog.

(1) I welcomed the opportunity whilst you were in London this summer of discussing with you the position regarding the transfer of the South African High Commission Territories. To my mind this is a question of great importance, with regard to which it is desirable, and indeed essential, that there should be constant contact, understanding and confidence between His Majesty's Governments in the Union of South Africa and in the United Kingdom. I was therefore glad of the frank and friendly discussions which we had, though keenly sorry that you should have felt disappointment at their outcome.

(2) You will remember that at the close of our talks, I promised to think over very carefully the position as it was left by them, and to communicate with you further after your return to South Africa. The purpose was to see what further practical action we could devise in consultation together to enable the policy agreed upon in 1935 to be given full effect. Since you returned to South Africa the question has been further discussed in your and my public statements, and in the light of these I have included in this letter some account of recent developments regarding the question which will I hope make clear the attitude which His Majesty's Government in the United Kingdom has adopted towards it.

(3) I should like at the outset to say that His Majesty's Government in the United Kingdom entirely accept the view expressed in your speech in London in May, 1935, that Section 151 of the South Africa Act, with the Schedule, has a "meaning and intention." We fully recognize the significance of the Section, and do not seek to minimize it. At the same time the position of the United Kingdom Government is also necessarily governed by the pledges which were given during the passage of the South Africa Bill through the United Kingdom Parliament in 1909, i.e., that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered, and that before such transfer Parliament here should also be given the fullest opportunity of expressing its views.

(4) For the purposes of this letter, I do not think it is necessary to go into the past history of this question beyond the agreement which you reached with my predecessor in 1935, which at present governs the situation.

(5) In the course of your discussions with him in that year, Mr. J. H. Thomas, then Secretary of State for Dominion Affairs, told you that the information available to the Government here indicated that native opinion in the Territories remained strongly opposed to transfer, and that he therefore did not think that the time was ripe for consulting opinion in the Territories with regard to it. You and he then agreed to the policy which was set forth by him on behalf of the United Kingdom Government in the *aide-mémoire* of 15th May, 1935, in the following words:—

> "the policy of both Governments for the next few years should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned. With this end in view we feel it important that the closest possible co-operation should be established between the Union Government and the Administrations of the Territories. We realize, of course, that some measure of co-operation already exists; but we feel that there are many directions in which it could be fruitfully extended. In particular it appears to us to be an essential

condition of the success of such a policy that the native population should feel that the Union Government are working in concert with the local Administrations with a real and generous desire to develop and improve conditions in the Territories."

(6) It has sometimes been suggested that the United Kingdom Government have failed to play their part in implementing this policy. I should like to recapitulate briefly the steps which the United Kingdom Government have taken to carry it out. Following immediately on his discussion with you Mr. Thomas sent a letter to Sir William Clark, the High Commissioner, informing him of the discussion and proposing the lines of action which he and the local Administrations in the Territories should adopt for the policy's achievement. Before that letter was sent it was shown to you, so that there might be an understanding as to the general lines which the local Administrations should adopt.

Regarding this, Mr. Thomas wrote in the letter:—

"I . . . . promised to press upon you (the High Commissioner) the desirability of having as comprehensive a scheme of co-operation as possible worked out. I mentioned that I thought it would be very desirable that you should have a further talk with General Hertzog as soon as possible after his return. I added that I was sure that the right policy, especially in dealing with the Chiefs and their followers, was to discourage agitation against joining the Union and concentrate on getting everyone, Natives and Europeans alike, to work for the success of such co-operative measures as might be found possible. It seemed to me that this was the best way of creating the right atmosphere. General Hertzog concurred."

(7) On your return to South Africa, Sir William Clark discussed the matter with you, and subsequently conferred both with the Resident Commissioners of the Territories and with representatives of the Union Government in order to see what co-operative measures were possible. Certain arrangements were made and carried out regarding the loan of Union experts on problems affecting the Territories, and other matters.

(8) Moreover, when the Union Government generously offered to share the cost of certain important development schemes which we were initiating in the Territories, the High Commissioner with my approval accepted the offer on a 50:50 basis, and the Resident Commissioners were instructed to explain this proposal to the inhabitants of the Territories and to seek their co-operation. Despite the initial opposition of the native authorities, it seemed likely that this co-operation would be secured, when a debate took place, in June, 1936, in the Union Parliament, in the course of which things were said which made the natives suspect, quite erroneously, that attached to the Union's financial offer some condition regarding the transfer of some or all of the Territories within a set period of years. Though with your concurrence I stated in the House of Commons soon after that there was not and had not at any time been such an agreement, uneasiness regarding the proposal for financial assistance had, unfortunately, been aroused amongst the natives, and in those circumstances you concurred in the abandonment for the time being of the proposal.

(9) I very much regretted the breakdown of the policy of co-operation in this very important field. Such a practical example of the Union Government's readiness to help the populations of the Territories should in time have had a considerable effect in establishing in their minds a more friendly disposition towards the Union, and had the proposals materialized, they might well by now have begun to have that effect. This incident, so unfortunately interrupting the work of co-operation, is the explanation why the situation in the Territories regarding the question has altered so little in the last year or so.

(10) As regards the other suggestion in Mr. Thomas's letter to the High Commissioner, that agitation against joining the Union should be discouraged, I am confident that the High Commissioner and Resident Commissioners have acted in this spirit, as has also the Government here. I may mention in this connexion that on both occasions in the past (i.e., in 1919 and 1923) when my predecessors have received in London deputations from Chiefs in the Territories in regard to transfer steps were taken to impress upon the deputations that in the opinion of His Majesty's Government in the United Kingdom the provisions of the Schedule to the South Africa Act provided adequate safeguards for the interests of the native populations in the event of transfer to the Union.

(11) His Majesty's Government in the United Kingdom stand by the policy of bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned. The question now is what further steps can be taken to give effect to the intention of the 1935 Agreement. Parliament here, who are to have the opportunity of considering transfer before it can take place, would not, I feel certain, agree to transfer if after consultation it appeared that native opinion was hostile to the change.

(12) I have given the question further careful thought following upon the talks with you and Mr. Havenga, and should like to put to you the following considerations. In the first place, can we do anything more in present circumstances in the way of practical co-operation between the Union Government and the administrations of the Territories in matters of interest and benefit to the inhabitants of the Territories, so that the natives may feel that, in the words of the *aide-mémoire* of 1935, the Union Government are " working in concert with local Administrations with a real and generous desire to develop and improve conditions in the Territories "? I appreciate that, in view of the circumstances in which financial co-operation connected with development schemes broke down last year, it is doubtful whether further proposals of this kind could usefully be renewed at present. There are, however, other practical ways in which the Union Government may be able to show their goodwill towards and readiness to help the Territories, and indeed certain measures such as the loan of technical officers have already been arranged as a result of the conversations between Sir William Clark and representatives of the Union Government at the end of 1935. I should welcome any further measures of that nature which were practicable.

(13) A step which would undoubtedly have the greatest possible favourable influence on opinion in the Territories would be the withdrawal, or relaxation, of the weight and other restrictions (not, of course, including restrictions imposed for veterinary reasons) imposed in respect of the entry of cattle from the Territories into the Union. I referred to this in a conversation which I had with Mr. Havenga shortly before he left England, and recognize your difficulties regarding it. But if it were at all possible for the Union Government to give the matter fresh consideration, any further step in that direction could hardly fail to be regarded by the peoples of the Territories as an act of real goodwill, and it would impress on them the advantages which can be gained from close and friendly relations with the Union authorities.

(14) Further I have been considering whether it would be possible to take steps to remove any misapprehensions which may exist in the local populations' minds as to their position in the event of transfer. If misunderstandings on this point exist, it is desirable that they should be removed by explanations of the facts so that there should be a true understanding of the prospects. The question arises, for instance, whether it would not be as useful for an outline of the system of administration set out in the Schedule to the South Africa Act to be made available to the Native Authorities in the Territories in some simple form, with an indication of how the system would be worked in practice and to what extent, if any, the form of administration to which the natives are now accustomed would be changed as a result of transfer. I know that the Union Government are willing that the principles set out in the Schedule to the South Africa Act should be maintained, and, as you are aware, the United Kingdom Government attach great importance to this. Indeed, they are pledged not to support any proposal for transfer if it involved the impairment of such safeguards for native rights and interests as the Schedule was designed to secure. It would, I think, be helpful if the Union Government could prepare some document on the lines suggested above. Mr. Havenga will remember that in my last talk with him in London regarding the Territories I suggested that this matter should be looked into.

(15) The question also arises whether it would be possible in such a document to make available to the Native authorities in the Territories information as to any economic and other advantages which might be expected to result from transfer. Producers in the Territories, Europeans and Natives alike, are largely dependant on the Union market, and on the economic side it would clearly be of importance that they should be aware what would be the position with regard to the marketing of their produce in the Union. It is provided in the Schedule to the South Africa Act that in the event of transfer no differential duties or imposts on the produce of the Territories should be levied but, apart from this point, it would be desirable that the effect of transfer in regard to the present quotas, levies and restrictions, especially in respect of cattle, should be clearly indicated.

(16) It would no doubt also be desirable to include in the document mention of the point which Union Ministers have already made known to us through Sir William Clark that the Union Government would be prepared in the event of transfer, to take over the serving officials in the Territories, including Native officials.

(17) If you agree that the preparation of a document or documents on these points would be useful, I would suggest that your officers might confer with Sir William Clark as to the most suitable form for the document to take. The question how best such a document could be made available to the Native Authorities in the Territories would be a matter for further discussion. So far as I am concerned, the object would be as explained above, to secure a full presentation of the facts.

(18) I should, however, mention that there are certain prior points for consideration before it would be possible to settle the terms of any such document. In the memorandum which Mr. Thomas handed to General Smuts in July, 1933 (which we subsequently published here in the Parliamentary Paper 4948 as an Appendix to the *aide-mémoire* of May, 1935) it was pointed out that since the South Africa Act was passed the Constitutional position had been affected by the passage of the Statute of Westminster and that there were in particular two sections in the Schedule which required special consideration, i.e., Section 20, which states that the King may disallow any law made by the Governor-General in Council by Proclamation for any territory; and Section 25, which provides that all Bills to amend or alter the provisions of the Schedule shall be reserved for the signification of His Majesty's pleasure. When the South Africa Act was passed His Majesty would have been advised on such matters after transfer of the Territories by His Majesty's Government in the United Kingdom. It would be desirable that we should discuss together what form of alternative security for the populations of the Territories on these points could take the place of these provisions.

(19) I should be glad to receive your observations on the suggestions put forward in this letter, and if you have any other suggestions to make I shall, of course, be very ready to consider them. In the meantime I earnestly hope that public controversy in this matter can as far as possible be avoided, for this only tends to increase the difficulties. I would suggest that the terms of any public anouncement as to future policy in regard to this question which it may be possible to make after the present communication between us had been concluded, should be agreed between us. I can assure you that the wish of the United Kingdom Government is to continue to work in close co-operation with you in this matter, in the hope that it may be settled by friendly agreement in the best interests of all the peoples concerned.

DRAFT LETTER FROM THE SECRETARY OF STATE FOR DOMINION AFFAIRS TO THE PRIME MINISTER OF THE UNION OF SOUTH AFRICA.

(Confidential.)

Downing Street, S.W.1, August, 1937.

1. I welcomed the opportunity whilst you were in London this summer of discussing with you the position regarding the transfer of the South African High Commission Territories. To my mind this is a question of great importance, with regard to which it is desirable, and indeed essential, that there should be constant contact, understanding and confidence between His Majesty's Governments in the Union of South Africa and in the United Kingdom. I was therefore glad of the frank and friendly discussions which we had, though keenly sorry that you should have felt disappointment at their outcome.

2. You will remember that at the close of our talks, I promised to think over very carefully the position as it was left by them, and to communicate with you further after your return to South Africa. The purpose was to see what further practical action we could devise in consultation together to enable the policy agreed upon in 1935 to be given full effect. Since you returned to South Africa the question has been further discussed in your and my public statements, and in the light of these I have included in this letter some account of recent developments regarding the question which will, I hope, make clear the attitude which His Majesty's Government in the United Kingdom has adopted towards it.

3. I should like at the outset to say that His Majesty's Government in the United Kingdom entirely accept the view expressed in your speech in London in May, 1935, that section 151 of the South Africa Act, with the Schedule, has a "meaning and intention." We fully recognize the significance of the section, and do not seek to minimise it. At the same time the position of the United Kingdom Government is also necessarily governed by the pledges which were given during the passage of the South Africa Bill through the United Kingdom Parliament in 1909, i.e., that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered, and that before such transfer Parliament here should also be given the fullest opportunity of expressing its views.

4. For the purposes of this letter, I do not think it is necessary to go into the past history of this question beyond the agreement which you reached with my predecessor in 1935, which at present governs the situation.

5. In the course of your discussions with him in that year, Mr. J. H. Thomas, then Secretary of State for Dominion Affairs, told you that the information available to the Government here indicated that native opinion in the Territories remained strongly opposed to transfer, and that he therefore did not think that the time was ripe for consulting opinion in the Territories with regard to it. You and he then agreed to the policy which was set forth by him on behalf of the United Kingdom Government in the *aide-mémoire* of 15th May, 1935*, in the following words:—

> " the policy of both Governments for the next few years should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned. With this end in view we feel it important that the closest possible co-operation should be established between the Union Government and the Administrations of the Territories. We realize, of course, that some measure of co-operation already exists; but we feel that there are many directions in which it could be fruitfully extended. In particular it appears to us to be an essential condition of the success of such a policy that the native population should feel that the Union Government are working in concert with the local Administrations with a real and generous desire to develop and improve conditions in the Territories."

6. It has sometimes been suggested that the United Kingdom Government have failed to play their part in implementing this policy. I should like to recapitulate briefly the steps which the United Kingdom Government have taken to carry it out. Following immediately on his discussion with you Mr. Thomas sent a letter to Sir William Clark, the High Commissioner, informing him of the discussion and proposing the lines of action which he and the local Administrations in the Territories should adopt for the policy's achievement. Before that letter was sent it was shown to you, so that there might be an understanding as to the general lines which the local Administrations should adopt.

* Cmd. 4948.

Regarding this, Mr. Thomas wrote in the letter:—

"I . . . . promised to press upon you (the High Commissioner) the desirability of having as comprehensive a scheme of co-operation as possible worked out. I mentioned that I thought it would be very desirable that you should have a further talk with General Hertzog as soon as possible after his return. I added that I was sure that the right policy, especially in dealing with the chiefs and their followers, was to discourage agitation against joining the Union and concentrate on getting everyone, Natives and Europeans alike, to work for the success of such co-operative measures as might be found possible. It seemed to me that this was the best way of creating the right atmosphere. General Hertzog concurred."

7. On your return to South Africa, Sir William Clark discussed the matter with you, and subsequently conferred both with the Resident Commissioners of the Territories and with representatives of the Union Government in order to see what co-operative measures were possible. Certain arrangements were made for the extension of the facilities already granted by the Union Government as regards the loan of Union experts on problems affecting the Territories, and other matters.

8. Moreover, when the Union Government generously offered to share the cost of certain important development schemes which we were initiating in the Territories, the High Commissioner with my approval accepted the offer on a 50:50 basis, and the Resident Commissioners were instructed to explain this proposal to the inhabitants of the Territories and to seek their co-operation. Despite the initial opposition of the native authorities, it seemed likely that this co-operation would be secured, when a debate took place, in June, 1936, in the Union Parliament, in the course of which things were said which made the natives suspect, quite erroneously, that attached to the Union's financial offer was some condition regarding the transfer of some or all of the Territories within a set period of years. Although with your concurrence I stated in the House of Commons soon after that there was not and had not at any time been such an agreement, uneasiness regarding the proposal for financial assistance had, unfortunately, been aroused amongst the natives, and in those circumstances you concurred in the abandonment for the time being of the proposal. I very much regretted the breakdown of the policy of co-operation in this very important field. Such a practical example of the Union Government's readiness to help the populations of the Territories should in time have had a considerable effect in establishing in their minds a more friendly disposition towards the Union, and had the proposals materialized, they might well by now have begun to have that effect.

9. As regards the other suggestions in Mr. Thomas's letter to the High Commissioner, that agitation against joining the Union should be discouraged, I am confident that the High Commissioner and Resident Commissioners have acted in this spirit, as has also the Government here.

10. His Majesty's Government in the United Kingdom stand by the policy of bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned. Parliament here, who are to have the opportunity of considering transfer before it can take place, would not, I feel certain, agree to transfer if after consultation it appeared that such acquiescence could not be secured. The immediate question therefore is what further steps can be taken to give effect to the intentions of the 1935 Agreement.

11. I have given this question careful thought following upon the talks with you and Mr. Havenga, and should like to put to you the following considerations. In the first place, can we do anything more in present circumstances in the way of practical co-operation between the Union Government and the Administrations of the Territories in matters of interest and benefit to the inhabitants of the Territories, so that the natives may feel that, in the words of the *aide-mémoire* of 1935, the Union Government are "working in concert with the local Administrations with a real and generous desire to develop and improve conditions in the Territories"? I appreciate that, in view of the circumstances in which financial co-operation connected with development schemes broke down last year, it is doubtful whether further proposals of this kind could usefully be renewed at present. There are, however, other practical ways in which the Union Government may be able to show their goodwill towards and readiness to help the Territories, and indeed certain measures such as the loan of technical officers already demonstrate the desire of the Union to assist to this end. I should welcome any further measures of that nature which were practicable, and am asking Sir William Clark to continue in close touch with you and your colleagues and advisers concerning them.

12. Another step which would undoubtedly have the greatest possible favourable influence on opinion in the Territories would be the withdrawal, or relaxation, of the weight and other restrictions (not, of course, including restrictions imposed for purely veterinary reasons), imposed in respect of the entry of cattle from the Territories into the Union. I referred to this in a conversation which I had with Mr. Havenga shortly before he left England, and recognize your difficulties regarding it. But if it were at all possible for the Union Government to give the matter fresh consideration, any further step in that direction could hardly fail to be regarded by the peoples of the Territories as an act of real goodwill, and it would impress on them the advantages which can be gained from close and friendly relations with the Union authorities.

13. Further I have been considering whether it would be possible to take steps to remove any misapprehensions which may exist in the local populations' minds as to their position in the event of transfer. If misunderstandings on this point exist, it is desirable that they should be removed by explanation of the facts so that there should be a true understanding of the prospects. The question arises, for instance, whether it would not be useful that an outline of the system of administration which the Union would propose to institute based upon the Schedule to the South Africa Act should be made available to the Native Authorities in the Territories in some simple form, with an indication of how the system would be worked in practice and to what extent, if any, the form of administration to which the natives are now accustomed would be changed as a result of transfer. I know that the Union Government are willing that the principles set out in the Schedule to the South Africa Act should be maintained, and, as you are aware, the United Kingdom Government attach great importance to this. Indeed, they are pledged not to support any proposal for transfer if it involved the impairment of such safeguards for native rights and interests as the Schedule was designed to secure. It would, I think, be helpful if the Union Government could prepare some document on the lines suggested above. Mr. Havenga will remember that in my last talk with him in London regarding the Territories I suggested that this matter should be looked into.

14. The question also arises whether it would be possible in such a document to make available to the Native Authorities in the Territories information as to any economic and other advantages which might be expected to result from transfer. Producers in the Territories, Europeans and Natives alike, are largely dependent on the Union market, and on the economic side it would clearly be of importance that they should be aware what would be the position with regard to the marketing of their produce in the Union. It is provided in the Schedule to the South Africa Act that in the event of transfer no differential duties or imposts on the produce of the Territories should be levied. It was then in fact contemplated that after transfer there would be complete freedom of trade between the Territories and the Union of South Africa, subject to veterinary requirements and to the embargo on the sale of intoxicating liquor to natives, and it would seem desirable that the effect of transfer in regard to the present quotas, levies and restrictions, especially in respect of cattle, should be clearly indicated.

15. In the foregoing paragraphs I have referred mainly to natives but there are also the European inhabitants of the Territories to be considered especially in Swaziland and the Bechuanaland Protectorate. It would be for consideration whether the document which I have proposed should not be so drawn as to cover the position of Europeans as well as natives in the event of transfer, so that both sections of the population would be made aware of the prospect. Or it might be more convenient for all concerned if the matters affecting the Europeans were dealt with in a separate document.

16. It would no doubt also be desirable to include in the document or documents mention of the point which Union Ministers have already made known to us through Sir William Clark that the Union Government would be prepared, in the event of transfer, to take over the serving officials in the Territories, including Native officials.

17. I hope that you will agree that the preparation by the Union Government of a document or documents on these points would be useful. The question how best such a document could be made available to the Native Authorities in the Territories would be a matter for further discussion. So far as I am concerned, the object would be as explained above to secure a full presentation of the facts.

18. I should however mention that there are certain prior points for consideration before it would be possible to settle the terms of any such document. In the memorandum which Mr. Thomas handed to General Smuts in July, 1933 (which we subsequently published here in the Parliamentary Paper 4948 as an Appendix to the *aide-mémoire* of May, 1935), it was pointed out that since the South Africa Act was passed the Constitutional position had been affected by the passage of the Statute of

Westminster and that there were in particular two sections in the Schedule which required special consideration, i.e., section 20, which states that the King may disallow any law made by the Governor-General in Council by Proclamation for any territory, and section 25, which provides that all Bills to amend or alter the provisions of the Schedule shall be reserved for the signification of His Majesty's pleasure. When the South Africa Act was passed His Majesty would have been advised on such matters after transfer of the Territories by His Majesty's Government in the United Kingdom. It would be desirable that we should discuss together what form of alternative security for the populations of the Territories on these points could take the place of these provisions. I am ready to discuss this aspect of the problem without delay.

19. I should be glad to receive your observations on the suggestions put forward in this letter, and if you have any other suggestions to make I shall, of course, be very ready to consider them. I would suggest that the terms of any public announcement as to future policy in regard to this question which it may be possible to make after the present communication between us has been concluded, should be agreed between us. I can assure you that the wish of the United Kingdom Government is to continue to work in close co-operation with you in this matter, in the hope that it may be settled by friendly agreement in the best interests of all the peoples concerned.

Y. 6/62. No. 14. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 7.14 p.m., 12th August, 1937.)

(Paraphrase.)

No. 134. Secret and Personal. 12th August. With reference to your secret and personal letter of 30th July*. I have carefully examined draft letter to General Hertzog† and with the general purport I am in entire agreement. I am suggesting certain modifications on particular points, in my immediately following secret and personal telegram‡.

The following observations refer to your letter to me:—

Begins.—(*a*) Paragraph 3. As regards the form of document it would I think be better to avoid suggesting consultation with the High Commissioner. Both in the Territories and in the Union any such association might be regarded as identifying the Secretary of State or the High Commissioner with the terms, since distinction between form and substance would be difficult to maintain. It seems most important that with a document which may be the subject of subsequent negotiation as between the Union and the Territories, and on which I should have to elicit views of native authorities, I should be in no way connected. Of course this would not preclude my providing information which might be required as regards form or on other points and actually, as you are aware, close contact is maintained between my officers and Smit of Native Affairs Department.

(*b*) Paragraph 5. As regards procedure for communication of document to native authorities I should like to consult Resident Commissioners. I will reply by letter on this and certain other points as soon as possible. Of course the chiefs may without consultation with their national councils or Kgotlas decline to express opinion and at this stage such consultation should probably be avoided as it would be very likely to elicit strong expression of refusal to consider terms which might lead to transfer.

(*c*) Paragraph 7. The Union Government would I feel pretty certain be strongly opposed to the High Commissioner being a member of the Commission as suggesting lack of confidence in their administration and infringement of independent status, etc. With some force they might also argue that it would not be suitable for the High Commissioner to take part on procedure contemplated under section 10 of schedule. The inclusion of the High Commissioner might well be regarded by natives as an important factor in case for acceptance of transfer but seeing how precarious his position might be on the Commission if things went wrong I doubt if we ought to put it forward. On this point I will write more fully. In any case I gather that at this stage you do not propose to put forward suggestion.—*Ends.*

The following comments refer to modifications suggested in the draft letter to Hertzog:—

Begins.—(1) Paragraph 7. Statement as it stands is not entirely accurate as similar facilities for loan of Union experts were provided before discussions in 1935. See also paragraph 12.

(2) Paragraph 9. Irritation I think would be caused by the last sentence. Perhaps what has been said in the preceding paragraph will suffice?

(3) Paragraph 10. A rejoinder might be invited by the last sentence that on our own admission we ought to support transfer if the Union Government adopts provisions of the schedule with the necessary supplementary guarantees or at any rate contention that we should now preach the same doctrine to the natives as in 1919 and 1923 which of course in the present circumstances would be gravely misunderstood. It would I think be safer to omit.

(4) Paragraph 11. I think that the last sentence would be regarded by the Prime Minister as practically negativing any prospects of transfer and the fat would be in the fire. In fact it rather seems to imply that Parliament would want something more than " acquiescence ".

(5) Paragraph 12. See my observations on paragraph 7. I think it better to avoid mention of my conversations since there was as you will remember some feeling over the arrangements for employment of Roberts.

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* ✓ No. ~~Y. 6/30~~. 12. † Enclosure in No. 12. ‡ ~~Not printed~~. Y. 6/62: not printed.

S.A.H.C. Territory—(C.28438/171). 24.

(6) Paragraph 14. In case we and the Union Government might agree that scheme of schedule might under current conditions be usefully modified in some particulars, it seems desirable to leave the way open.

(7) Paragraph 15. Wording of section 17 of schedule covered only kind of discrimination against territory which was foreseen at the time and presumably was intended to secure complete freedom of trade after transfer. It would I think be as well to make this absolutely clear.

(8) New paragraph 16 (*a*). I have suggested mention of Europeans as it will be necessary for the Union Government to consider also the terms which they would be prepared to grant to these, e.g. political representation.

(9) Paragraph 17. Please see comments on paragraph 3 of your letter to me.—*Ends.*

Y. 6/74. No. 15. PROOF.

SIR WILLIAM CLARK (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND AND SWAZILAND)

to

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS).

(Secret and Personal.) (Received 22nd August, 1937.)

Pretoria, 14th August, 1937.

MY DEAR SECRETARY OF STATE,

I duly received your Secret and Personal letter of the 30th July*, together with the draft of your proposed letter to General Hertzog, and dealt with the immediate points in my telegram of the 12th August†.

2. As I explained in the telegram, I felt that it might be dangerous to say anything in the draft about my being consulted as to the form of any document which the Union Government might prepare. I think the consultation is practically certain to occur in any case: e.g., if the Union Government adopt the all important suggestion in paragraph 14, they will probably require information on certain points in regard to our administrative methods, and this will facilitate the making of such supplementary suggestions as may seem desirable. These discussions, of course, would be between officials and behind the scenes: my only point is that it will be safer not to allow the fact of consultation, either on matters of form or substance, to receive publicity.

3. As regards the sections of the schedule which have been affected by the Statute of Westminster (paragraph 4 of your letter), it certainly looks as if a formal agreement between the two Governments would be the only alternative security for the natives of a transferred Territory. Such an agreement, as I visualize it, should set out in full the pledges of the Union Government. These, no doubt, would be based on the schedule, but the language—e.g., as to freedom of admission into the Union of all Territories' produce—should be more specific. A provision that there should be no departure from the terms of the agreement without consultation with the United Kingdom Government would, as you say, be desirable. Our experience over the Customs Agreement is not altogether encouraging as to the ultimate value of such instruments, but at any rate an agreement would put the whole thing definitely on record and would make departure from pledges more difficult. Actually, the safeguarding provisions in the schedule look more effective than they would probably have been in practice, since the kind of infringement into which the Union Government is most likely to be tempted—e.g., restriction of import of produce, etc.,—could be done administratively.

4. I suggested in the telegram that it might be as well to leave ourselves a loophole for departure by agreement from the terms of the schedule, if such departure should seem desirable. One point I had in mind is that the Union Government might want to entrust the administration of the Territories to the Minister of Native Affairs rather than to the Prime Minister; and if so, this question will presumably arise when they are considering their statement of terms. In earlier years there was no Minister of Native Affairs, the Native Affairs portfolio being held by the Prime Minister; that this would be so was no doubt known to the framers of the schedule and was probably the main reason for the provision. I see no advantage now—indeed, rather the contrary—in the Territories being administered by the Prime Minister and his office, which is in fact the Department of External Affairs. South West Africa is so administered, but its major problems derive from foreign relations rather than from native affairs, and I fancy the handling of the latter suffers from the arrangement. Alternatively, the Native Affairs Department could be brought into the matter by making its Secretary the secretary to the Commission to be appointed under section 2 of the schedule; but if one goes as far as that, it would seem better to put the Territories under the Minister of Native Affairs and have done with it. A Prime Minister would be unlikely to give the proper amount of time to their needs.

5. As regards the possibility of the High Commissioner being a member of the proposed Commission, I agree that the idea is attractive and might be useful for getting transfer through both as regards the natives and as regards our Parliament. The Union Government would very probably be opposed to the proposition on political grounds, but assuming for the moment that they would agree, I do see serious difficulties. Sooner or later the High Commissioner might find himself in a pretty grim position, unless we can be quite sure—and of course we cannot—that things would not be done of which he would have to disapprove. Much would turn on the selection of his two colleagues, and I fear it is unlikely that they would be men of an independent spirit who would put

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* No. ~~Y. 6/59.~~ 12.

† No. ~~Y. 6/62.~~ 14.

S.A.H.C. Territory—(C.28438/178). 24.

trusteeship before the interests of the white man. The history and personnel of the existing Native Affairs Commission is not an encouraging example. The functions of this body are merely advisory and though some of its members have been persons of liberal tendencies, the Government of the day has always seen to it that the majority of the members were closely connected with the reigning political party and represented the Transvaal rather than the Cape point of view in native affairs. In any case the Commission has never had any influence: for example, it is to-day dominated by Mr. Heaton Nicholls who is a convinced supporter of General Hertzog's native po'icy. The same kind of thing would probably happen with the Territories Commission. On the other hand, the Union Government would presumably be careful about the first appointees, since they would wish confidence to be felt in their intentions, and perhaps we might go so far as to suggest the inclusion of the High Commissioner for a limited time to help in the period of transition. This might be more acceptable to the Union Government, but I confess to feeling dubious about it.

6. As regards the question of the best method of presenting the proposed document to the native authorities, I am consulting the Resident Commissioners and will write further as soon as I get their views. I appreciate the points which you make in paragraph 5 of your letter. For the moment I believe the Union Government are quite willing to concentrate on Swaziland only. That is certainly Smuts' view and I think Hertzog's also. Neither of them conceals that they are in no hurry to tackle Basutoland! I will bear the point about Southern Rhodesia and the Bechuanaland Protectorate in mind.

7. I note your point as to the desirability of suggesting to the Union Government at some stage that the officers of the Territories should be informed of the detailed proposals regarding their own position. Will it not also be necessary for our Government to make some alternative offer to those who may be unwilling to be transferred to the Union administration? The younger men might well feel anxiety about their ultimate prospects under the Union, especially in connexion with bilingualism, and would probably ask to be absorbed into our Colonial Service. I do not know how far this would be practicable.

8. I doubt the practicability of a joint body of the nature contemplated by John Martin. It would certainly give rise to apprehension in the Territories and has other difficulties. Co-operation proceeds much more smoothly on the present basis of associating Union experts with schemes of development, as in the case of Roberts, the Chief Engineer of the Native Affairs Department, with anti-erosion, Pole-Evans of the Union Agricultural Department with pasture research, and so on, combined with close liaison between my officers and those of Union Department. As regards administrative matters, the portions of the record and of the Memorandum enclosed with my letter to Harding of the 15th November, 1935*, which refer to the question of eliciting the views of the Union Government on questions of policy, represent the demands put forward by the Minister of Native Affairs who then had in mind securing uniformity with the laws of the Union; but the Memorandum, which was *ad referendum* to me, was subsequently abandoned at his request. Our conception of native administration differs fundamentally from that of the Union, and, that being so, I think it would be troublesome for all parties if we were to invite the formal views of the Native Affairs Department on various questions of policy. We can, however, keep the Department informally notified of proposed important legislation affecting native administration and I will let the Secretary of the Native Affairs Department have a copy of the Native Proclamations for Basutoland when the drafts have reached finality.

9. I entirely agree, if I may say so, with the last sentence of your letter and I think that I can reasonably claim that through our informal contacts with the Union authorities, they are kept in touch with most matters of moment affecting the Territories.

Yours, &c.,

W. H. CLARK.

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* No. ~~10991/281~~
31 in Samuma (South Africa) No. 6.

Y. 6/67. No. 16. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 4 p.m., 26th August, 1937.)

(Paraphrase.) [transmitted by No. 17]

No. 144. Secret. The following message from Sir H. Batterbee with reference to your telegram No. 141 of 18th August*:—

Begins.—When handing draft letter to General Hertzog, Secretary of State agrees that it would be desirable that in the course of conversation you should find some suitable opportunity to allude informally to point in connexion with section 151 of South Africa Act. He thinks however that it would be preferable not to enter into detailed discussion of legal position, especially as reference to present Law Officers would seem advisable before any opinion were formally expressed on behalf of His Majesty's Government in the United Kingdom. He feels therefore that best general line to take would be to warn General Hertzog informally that on the legal question involved you are not at all sure that his views would be shared by His Majesty's Government in the United Kingdom; that if General Hertzog wished you are quite ready to enquire as to the opinion of the United Kingdom Government's Legal Advisers but that at the moment you doubt whether this aspect of the matter need be pursued; and that you feel sure that His Majesty's Government in the United Kingdom do not wish to emphasize possible differences of opinion on questions of legal procedure and that, if principles preliminary to transfer had been satisfactorily settled, questions of procedure should be capable of adjustment without difficulty.

For convenience of reference in communicating with you the paragraphs of the draft letter to General Hertzog were numbered but the numbers should be omitted from copy handed to General Hertzog.

Please alter the word " has " in last line of paragraph 2 to " have " in re-copying in your office.—*Ends.*

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* Y. 6/67 not printed.

S.A.H.C. Territory—(C.28438/172). 24.

Working Copy

Y. 6/76. No. 17. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 5.40 p.m., 30th August, 1937.)

(Paraphrase.)

No. 146. Secret and Personal. 30th August. The following message for Sir H. Batterbee:—

Begins.—This morning I handed the Secretary of State's draft letter to General Hertzog*, giving him a brief verbal summary of its contents. Naturally he reserved comment and gave no indication whether the idea of producing statement of terms appealed to him. I touched on the legal question in course of our talk, on the lines of your telegram No. 144† and he agreed that it was not now necessary to pursue the issue. A suggestion that I should give a copy to General Smuts, which I introduced on the grounds of his being at the present moment acting Minister of Native Affairs, was agreed to by General Hertzog. To-morrow night General Hertzog leaves for Bloemfontein and until next week will not be able to deal with the draft letter. Later at a luncheon party I had a short talk with Smuts who was cautious but seemed to approve our ideas.—*Ends.*

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* ~~Enclosure in No. Y. 6/99.~~ No. 13.

† No. ~~Y. 6/67~~ 16.

S.A.H.C. Territory—(C.28438/174). 24.

Y. 6/78. No. 18. PROOF.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 8th September, 1937.)

(No. 543.) (Confidential.)

Pretoria, 30th August, 1937.

SIR,

I have the honour to transmit herewith, for your information, a copy of a despatch from the Resident Commissioner of Basutoland forwarding a translation of a letter from the Paramount Chief Griffith Lerotholi enquiring as to the position in regard to the incorporation of the High Commission Territories in the Union of South Africa. I also enclose a copy of my reply.

I have, &c.,

W. H. CLARK,

High Commissioner.

Enclosure 1 in No. 18.

(No. 820/15.) (Confidential.)

Maseru, Basutoland, 26th August, 1937.

YOUR EXCELLENCY,

I have the honour to forward a translation of a letter which has been received from the Paramount Chief stating that it has come to his notice that the Prime Minister of South Africa has resuscitated his demand for the incorporation of the High Commission Territories in the Union of South Africa and asking that he may be furnished with information regarding the present position in this matter.

2. I suggest that the reply to Chief Griffith should be that the Secretary of State, dealing with this matter in the House of Commons on the 29th of July, said:—

> "General Hertzog and I agreed that I should communicate with him on the whole question, explaining the position of His Majesty's Government, in an endeavour to see what further steps were practicable for the carrying out of the 1935 policy to the full. We are not contemplating any new policy. We contemplate a further implementing of the existing agreed policy. That communication is now being drafted, and will be sent to General Hertzog very shortly. It will, no doubt, be followed by discussions between the two Governments, and there, I think, we should allow the matter to remain at the moment. I should only like to say this in conclusion, that neither in this country nor in the Union are these Territories regarded simply as pawns in some game between the Union of South Africa and the United Kingdom. We must consider not simply the interests of the Union or the interests of the United Kingdom. We have to consider in this matter very seriously indeed the interests of the population, both European and native, in the Territories concerned".

3. It is also suggested that the Paramount Chief be informed that if the communication from the Secretary of State, to which reference is made above, is published a copy will be sent to him.

I have, &c.,

E. C. RICHARDS,

Resident Commissioner.

His Excellency
Sir William Clark, G.C.M.G., K.C.S.I.,
High Commissioner for Basutoland, &c.

Masero, Basutoland, 16th August, 1937.

I greet you Chief.

Chief,

I am writing you this letter because of the strong rumours which have come to my ears which are to the effect that the Prime Minister of South Africa has resuscitated his demand for the incorporation of the Protectorates within the Union. You will remember, Chief, that I submitted a request to you on about two past occasions asking for information regarding this matter and you supplied me with the required information.

Now, Chief, I feel I have not the courage to stay quietly while I hear that the rumours are much more pronounced than before, and that these rumours touch my person as head of these Basuto who are required to enter the Union. Chief, under these circumstances I request for mercy

that you may give me some information as to the position of this matter at the present moment, and I ask that this request of mine may be submitted to His Excellency the High Commissioner for him to lay it before the Secretary of State so that I may be furnished with fuller information regarding this matter, Chief.

With greetings,

Your Friend,

N. GRIFFITH LEROTHOLI.

Paramount Chief.

The Resident Commissioner of Basutoland,
Maseru.

Enclosure 2 in No. 18

(No. 2350.) (Confidential.)

SIR, Pretoria, 30th August, 1937.

I have the honour to acknowledge the receipt of your despatch confidential No. 820/15 of the 26th August forwarding a copy of a letter addressed to you by the Paramount Chief enquiring as to the present position in regard to the incorporation of the High Commission Territories in the Union of South Africa.

2. I concur in your suggestion that in replying to the Paramount Chief you should refer to the passage from the statement made by the Secretary of State for Dominion Affairs in the House of Commons on the 29th July as quoted in paragraph 2 of your despatch. With regard to the third paragraph of your despatch I think that it would be preferable not to refer at this stage to the question of the publication of the communication from the Secretary of State but you might inform the Chief that he may be assured that he will be kept informed if and when any important developments arise.

I have, &c.,

W. H. CLARK,

High Commissioner.

His Honour
The Resident Commissioner
of Basutoland.

Y. 8/74. No. *19.* **PROOF.**

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 2.45 p.m., 9th September, 1937.)

No. 150. Secret. 9th September. Following for Machtig:—

Begins.—Please refer to paragraph 4 of my secret and personal letter to the Secretary of State of the 14th August*. Reference to native affairs portfolio in earlier years of the Union are not altogether accurate. I had overlooked the fact that Botha did not assume the portfolio until 1913 see Union Year Book 1934/35 page 79.—*Ends.*

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* No. ~~Y. 6/74.~~ *15.*

S.A.H.C. Territory—(C.28438/173). 24.

Y. 6/92. No. 20. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.45 p.m., 20th October, 1937.)

[*Answered by No.* ~~Y. 6/92.~~ 21.]

(Paraphrase.)

No. 180. 20th October. Secret and Personal. My telegrams No. 172* and No. 176† secret and personal of the 18th October.

Message for Sir Edward Harding. My comments on Hertzog's draft letters A and B are as follows:—

The dominant issue in both letters is the interpretation of Mr. Thomas's conversation. The Prime Minister contends that his acceptance of *aide-mémoire* and of letter to me of 21st May 1935‡ is invalidated as a result of the alleged understanding with Mr. Thomas not having been implemented by His Majesty's Government. It seems to me that acceptance of this thesis would involve an admission (1) that His Majesty's Government were parties to arrangement through a secret agreement behind the *aide-mémoire* for deceiving Parliament and the public and (2) that His Majesty's Government in failing to implement this agreement were guilty of bad faith and I presume that the Secretary of State will feel that it is necessary to rebut it.

In this connexion, you will remember that last year he took a similar line to justify his unfortunate statement in Parliament but that he subsequently admitted that no other agreement verbal or otherwise apart from that in the *aide-mémoire* was made by him with Mr. Thomas,—see Sir Cecil Fforde's telegram No. 113 confidential of 3rd July, 1936§,—and that he concurred in the terms of the Secretary of State's statement in the House of Commons on the 15th July 1936. Broeksma tells me that he reminded the Prime Minister of this but that he swept it aside.

The truth is that the Prime Minister is determined to find a justification for the difficulty in which he has placed himself through having (1) accepted the *aide-mémoire* and especially " full acquiescence in " stipulation and (2) approved text of letter to me which contained no instruction about influencing natives towards transfer. He now realizes that (1) makes conditions of transfer more exigent than when only consultation was postulated and that a transfer thus becomes more difficult especially as our officers in whose efficacy he cherishes an excessive confidence are not to exercise influence.

I understand from Broeksma that he is optimistic about our swallowing his present elaborate case and I am anxious as to the effect on him when he receives rebuttal however temperate it may be worded. Also the argument might well become interminable.

This raises the question whether we should try to get his draft withdrawn. I have considered talking about this to Smuts in the Prime Minister's absence but decided against it partly because I doubt whether he could usefully intervene in a matter so entirely personal to the Prime Minister and partly because I do not wholly rely on Smuts's discretion. I think the best course on the whole is to accept the letter, reply to it and at the same time try to switch Hertzog over to preparation of joint statement for publication. The trouble about that is that the point of departure for statement must be the 1935 *aide-mémoire* and if the Prime Minister persists in his endeavour to repudiate it the thing will be difficult. I hope however that his colleagues will make him realize that with documentary evidence against him this is really impracticable.

There are also complaints about our officers arising out of Mr. Thomas's conversations which in paragraphs 61 and 62 of draft letter B amount to thinly disguised charges that they have not carried out loyally instructions to discourage agitation against transfer. I believe this derives from reports given to Union Ministers by European settlers in Bechuanaland Protectorate and possibly also by Isang of alleged utterances by Colonel Rey. Rey may on some particular occasion have been indiscreet but as you know he looked more favourably on transfer than most of our officers, and even granted this it affords no justification for this general accusation. I spoke to the Resident Commissioners at the time about Mr. Thomas's wishes and sent copies of letter of 21st May, 1935, to them. I doubt very much if there has been any " agitation " to discourage: the trouble lies in settled opposition of our natives to transfer. I hope that reply will strongly repudiate suggestion which is unjustifiable reflection on the loyalty of our officials.

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* Y. 6/89: not printed. † Y. 6/90: not printed. ‡ Nos ~~10991/294~~. § No. ~~10991/857~~.

As regards guarantees there is doubt of force in arguments summarized in paragraphs 45 and 47 and the Prime Minister evidently does not intend to suggest any form of agreement. He overlooks the expediency in relations of British Parliament and Natives of finding some substitute for sections 20 and 25, but I imagine might be willing to make a unilateral declaration that the Union's intention is to stick to the terms of the schedule, etc., if that were thought worth while.

Next week I propose to consult Resident Commissioners in regard to (1) method of consultation especially paragraph 29 (2) joint Advisory Committee and question of financial assistance (51) (3) possible employment of Union officials in the Territories (60).

My own impression about these are (1) this has obvious objections and I see it was rejected by the Secretary of State in his talk with the Prime Minister and Havenga. It is perhaps not necessary to pronounce upon it immediately. Hertzog might point out that we are weighting the scale if we do not let our officers support his case and also refuse to permit representatives of Union of South Africa to do so. (2) I see little utility in an Advisory Committee but I recognize that we cannot well refuse. Committee's scope will be embarrassingly small if financial assistance is barred and I think it must be. (3) I doubt if this is practicable.

The following comments relate to paragraphs specified 35 and 36 the transkei system is unsuitable to our Territories as it is not consonant with tribal institution (of) S.P. 36 possibly refers to P. 16 of schedule which safeguards rights of holding pitsos but these are quite different in their functions from transkeian councils.

(54) It is very doubtful whether, if relaxation of restriction were an exigency arising out of the transfer the Union farmers would in fact be placated. Last sub-sentence appears to suggest that Southern Rhodesia is to be sacrificed.

(56)–(59) This presumably should be the concern solely of the Union Government.

(65) Hertzog seems to have forgotten that in any given year apart from those employed on farms and in locations, some 60,000 of our natives work in the Union of South Africa on mines alone, and have all too many opportunities for direct contacts with Union officials.

(67) " Until quite recently " is amusing when one recalls that important breach of Customs Agreement was made in 1926 the year after Hertzog first came into power.

(68)–(71) Boards of Control under the Marketing Act are not entirely independent of the Government since the schemes have to be approved by the Minister of Agriculture (section 22 (1)) and restriction or prohibition of importations can only be effected by proclamation of the Governor General (s.33). A situation such as Hertzog envisages would seem to involve denunciation of the Customs Agreement which unless we come to a complete breach he can hardly contemplate.

Following comments relate to paragraphs in covering letter A

6. According to Broeksma " other factors " means economic and other advantages of transfer and disadvantages which might supervene if unduly delayed. As to the latter he referred to presume which may arise from growing difficulties of farmers especially rising cost of labour for further restriction of Territories produce.

7. Last (2) are unintelligible and Broeksma was unable to elucidate he thought paragraph was intended to be a reiteration of paragraph 6 and will supply amended.

10. I have become very dubious whether the question of Territories *per se* is really a burning one outside of ministerial circles. See my letters to you 12th* and 16th October† in regard to the attitude of Malanites about the Territories. At the same time South Africans are very sensitive about slight on their native policy and no doubt feeling could easily be aroused from that standpoint.

I learn that the Prime Minister will be in Pretoria on 25th and 26th and will then leave for another ten days. Secretary of State may wish me to see him on 25th about the new Resident Commissioner for Swaziland (see my telegram No. 175 secret and personal of 18th October‡) which I presume is urgent, and if so he is very likely to ask me for my preliminary impressions of his drafts.

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* Y.6/101: not found. † Y.6/101: not found. ‡ Y.27/9: not found.

Y. 6/92. No. 21. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 9 p.m., 22nd October, 1937.)

(Paraphrase.)

Secret and Personal. Your telegram No. 180 of 20th October*. Following message from Harding:—

Begins.—Secretary of State is grateful for your full comments on General Hertzog's draft letters. Before sending you his observations he will of course have to wait till he has received and had time to study texts of letters. No doubt it will be sufficient if when you see him about Bruton's appointment you let General Hertzog know that you have sent the Secretary of State an advance summary, without at this stage committing yourself to any definite views on substance of letters.—*Ends.*

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* No. ~~Y. 6/92~~ 20.

S.A.H.C. Terr.—(C.2843a 176). 24.

DRAFT LETTERS FROM THE PRIME MINISTER OF THE UNION OF SOUTH AFRICA TO THE SECRETARY OF STATE FOR DOMINION AFFAIRS.

(Received 25th October, 1937.)

Department of External Affairs, Pretoria.

1. I am herewith forwarding my draft reply to your draft letter* on the subject of the South African High Commission Territories.

2. At one stage it has been suggested that it might be useful if I were to suggest what passages might be omitted from your present draft and were then to frame my draft reply as an answer to your draft as amended by me.

3. Unfortunately I do not think that this procedure would be sound, for I cannot be certain that the amendments which might be suggested by me to your draft will be acceptable to you, and then my reply would not, so to speak, fit in. Moreover, with regard to the account given by you of the recent developments regarding this question which commences on page 2 of your draft and concludes on page 7, it is incumbent on me to emphasize that, inasmuch as the undertaking which Mr. Thomas gave me on the 14th May, 1935, viz., that instructions would be given to the officials in the Territories to foster amongst the natives a spirit of goodwill towards the idea of transfer to the Union was never carried out, it will become necessary to revise the statement of policy to which I agreed with Mr. Thomas in 1935 unless His Majesty's Government in the United Kingdom contemplate taking steps to implement the undertaking given to me by Mr. Thomas.

4. As I see it, the fundamental idea underlying your draft letter as set out in paragraph 2 of page 7, viz., that " His Majesty's Government in the United Kingdom stand by the policy of bringing about a situation which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations ", becomes fallacious and untenable because the condition precedent agreed upon between Mr. Thomas and myself has not been fulfilled.

5. Similarly, I have grave objections to the second sentence in the same paragraph, viz., " Parliament here, who are to have the opportunity of considering transfer before it can take place, would not, I feel certain, agree to transfer if after consultation it appeared that such acquiescence could not be secured ".

6. For I have a feeling that you not only somewhat prematurely stress a possibility which may not arise at all, but that even if it should arise, you overlook the possibility that probably other factors besides the attitude of the inhabitants of the Territories would have to be most carefully considered by the United Kingdom Parliament before arriving at a final decision.

7. I am therefore compelled to emphasize that whatever the wording of the undertaking which was originally given to the Parliament at Westminster may be, or whatever its intention may have been, it cannot now be considered appropriate to say what Parliament would or would not do in case the undertaking which was given to Parliament might fail of accomplishment.

8. I suggest, therefore, that the better procedure would be if your draft letter were to stand unaltered at this stage and my draft reply were given fully and frankly, as I hereby submit the same.

9. At the same time I am forwarding in draft form the documents which you suggest might be prepared in order to inform the natives what form of administration would be applied by the Union and what advantages would result from transfer together with a statement of the disadvantages that would be avoided in future if transfer were not delayed too long.

10. I should be failing in my duty if I did not emphasize once more that this question has become a burning one. The impression is gaining ground in the Union that the administrations of the Territories are not serious in their efforts to promote a more friendly spirit amongst the natives towards the idea of transfer. It is felt that if they were, transfer would become a matter of practical politics within a comparatively short time.

11. It is not the wish of His Majesty's Government in the Union that anything should be done to jeopardize the friendly relationships which exist between the Union

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No. 13. 36
*Y. 6/36. not printed.

S.A.H.C. Territories—(C.28926/191). 24.

and the United Kingdom. Accordingly I have deemed it fit to set out the views of His Majesty's Government in the Union in detail and candidly. For I feel that it is on this basis only that we shall in the end arrive at useful and profitable results.

12. As this question may be raised during the forthcoming session of our Parliament I should appreciate it if you could deal with this matter as soon as you are in a position to do so with convenience.

Enclosure in No. 22

(Confidential.)

1. I have read with interest your draft letter* on the subject of the transfer of the South African High Commission Territories.

2. It is hardly necessary for me to state that I agree whole-heartedly that in this matter there should be the closest contact and understanding between His Majesty's Governments in the United Kingdom and in the Union of South Africa and would venture to add that there should also be that complete degree of frankness which is a necessary corollary to genuine confidence and co-operation.

3. It is in this spirit, therefore, that I shall, in the first place, deal with the account which you give of the recent developments regarding this question and which you hope will make clear the attitude which His Majesty's Government in the United Kingdom have adopted towards it.

4. In this connexion you refer to the *Aide-Mémoire* of 15th May, 1935, which purports to embody the policy which Mr. Thomas and I agreed upon at the time.

5. Before dealing with the terms of this document in more detail, I desire to state that when I visited Mr. Thomas on 14th May, 1935†, for the purpose of discussing the matter of the Protectorates with him, the document had already been prepared by him.

6. I was, however, unaware of this fact. A discussion ensued between Mr. Thomas and myself in the course of which I emphasized the necessity that the officials in the Territories should be instructed to foster amongst the inhabitants a spirit favourable towards the idea of transfer, as this seemed to me to be the most important method by which my objective could be attained within a comparatively short period of time. To this Mr. Thomas assented, and in proof of his agreement with me produced the document to which I have already referred and read it to me.

7. As I had thus obtained from Mr. Thomas an undertaking which seemed to me to be vital to the attainment of my objective, I agreed that " the policy of both Governments for the next few years should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned ".

8. Similarly it is in the light of the same undertaking by Mr. Thomas that the following further statement must be read:—

> " In particular it appears to us to be an *essential condition* of such policy that the native population *should feel that the Union Government* are working in concert with the local Administrations with a real and generous desire to develop and improve conditions in the Territories."

9. I desire to state emphatically that it was clearly and definitely understood between Mr. Thomas and myself that the most important method by which the " essential condition " of the success of our policy could be achieved was not only that the officials in the Territories should actively discourage agitation against joining the Union, *but that they should also be instructed to inculcate in the inhabitants ideas favourable towards transfer.*

10. This method seemed to me to be a *sine qua non* in the process of ensuring the " full acquiescence " of the inhabitants concerned.

11. It was in the light of this definite understanding between us that I concurred in the letter which Mr. Thomas wrote to Sir William Clark, the High Commissioner, to which you refer in detail on pages 4 and 5 of your draft letter, and in which Mr. Thomas stated that he was sure that " the right policy, especially in dealing with the chiefs and their followers, was to discourage agitation against joining the Union and *concentrate on getting everyone*, Natives and Europeans, alike, *to work for the success* of such co-operative measures as might be found possible. It seemed to me that this was *the best way of creating the right atmosphere*. General Hertzog concurred ".

12. That this " right policy ", to repeat the words of Mr. Thomas, was never fully implemented in the manner agreed upon between Mr. Thomas and myself came to my knowledge comparatively recently, and as a painful surprise to me. You will recall that in the course of our conversations during the recent Imperial Conference you admitted to me that no instructions had been or would be issued to British Officials in the Territories to assist in cultivating with the natives under their jurisdiction a spirit favourable to transfer to the Union.

13. It is hardly necessary for me to state that had I anticipated that what was agreed upon between Mr. Thomas and myself to be an " essential condition of the success " of the policy which we had in mind would never fully be translated into action, I should never have agreed to the use of the phrase " *full acquiescence* of the populations concerned ", nor, indeed, would I have returned from England in May, 1935, with the feeling of satisfaction to which I testified at the time.

14. For, as you state on page 2 of your draft letter, during the passage of the South Africa Bill through the United Kingdom Parliament in 1909, no more was undertaken than that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered—a proposition which, you will agree, does not necessarily postulate full acquiescence on the part of the inhabitants.

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* No. ~~Y. 6/28~~.
13.

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15. Be that as it may, I returned from England in May, 1935, entirely satisfied in my mind that if Mr. Thomas' promise to me were carried out (and I had no reason to believe that this would not happen), the transfer of the Territories would become an accomplished fact within a couple of years.

16. I must, therefore, emphasize that inasmuch as the integral part of the policy which was agreed upon between Mr. Thomas and myself has up to the present not been carried out by His Majesty's Government in the United Kingdom, it is surely merely playing with words to suggest that the policy agreed upon between Mr. Thomas and myself has been fully implemented.

17. The very essence of the agreement between Mr. Thomas and myself not having been complied with and the " essential condition of the success " of the policy which we had in mind not having been carried out, how can it seriously be suggested that the United Kingdom Government have fully carried out their part of the policy which was agreed upon between Mr. Thomas and myself?

18. Moreover, if, as you suggest on page 7 of your letter, a serious effort has been made to discourage agitation against joining the Union, I can only record my feeling of regret that these efforts have been so transparently ineffective and barren of positive results.

19. In dealing therefore with the suggestions advanced by you and which you consider would assist in practical ways in ensuring the acquiescence of the inhabitants of the High Commission Territories and also the concurrence of the United Kingdom Parliament in the transfer of the Territories in question to the Union, I shall assume that no more is meant by the word " acquiescence " than " goodwill towards the idea of transfer to the Union ".

20. Proceeding then on this assumption, I understand your letter to contain the following four main points:—

In the first place, in order to remove any misapprehensions which may exist in the local populations' minds as to their position in the event of transfer, you suggest the preparation of a document setting forth:—

(*a*) the system of administration which the Union would propose to institute and the extent to which, if any, the Union system would differ from the present system,

(*b*) the advantages, economic and other, which might be expected to result to the inhabitants of the Territories from transfer, and

(*c*) the readiness of the Union Government to take over the serving European and Native officials in the Territories.

21. In this connexion, I should like to say at once that His Majesty's Government in the Union of South Africa have never contemplated any other form of administration for the Territories in question than that outlined in the Schedule to the South Africa Act and apart from the question as to the legal effect of sections 20 and 25 of the Schedule (which is dealt with by me at a later stage hereof), they likewise do not contemplate a departure from the terms of the said Schedule in future.

22. Under section 22 of the Schedule provision is made for the protection of the rights of officers of the public service and in conformity with the intention of the said section the Union Government would be prepared to take over the serving European and Native officials in the Territory.

23. I also agree that the preparation of a document on the lines suggested by you would be a very useful step indeed and have already given instructions in this respect.

24. With regard to the point raised by you as to whether a separate document should be made available for Europeans, I feel that especially in view of the position of Swaziland, it would be advisable to prepare a further document dealing with the matters more especially affecting the European inhabitants of such territories as are concerned. This document is also in course of preparation and both documents will be submitted for your observations in due course.

25. Perhaps it would be well to indicate here that in the document dealing with the form of administration it would be emphasized that in actual practice no change in the existing form of administration will take place and the only real and substantial change in this respect would be the transfer of the legislative and administrative control at present exercised by His Majesty's High Commissioner to the Governor-General of the Union.

26. In the document the functions of the Commission to be appointed under section 2 of the Schedule would be emphasized.

27. I likewise agree that the manner in which the above documents should be made available to the Native Authorities in the Territories would be an appropriate subject for further discussion.

28. In this connexion the thought occurs to me that at some stage or other, possibly an early one, or, in any case, at the right moment of time, it might be found important and necessary to give the inhabitants of the Territories an opportunity of putting such questions or obtaining such further information as they may desire.

29. The question whether, in such event, representatives of the Union would be afforded an opportunity of attending pitsos and similar gatherings, might become a very vital one and seems to me to be one which might usefully be borne in mind during all the further stages these discussions may take.

30. In the second place, you mention in page 13 of your letter the matter of sections 20 and 25 of the Schedule to the South Africa Act. You point out that section 20 states that the King may disallow any law made by the Governor-General in Council by Proclamation for any territory and that section 25 provides that all Bills to amend or alter the provisions of the Schedule shall be reserved for the signification of His Majesty's pleasure. You also mention that when the South Africa Act was passed, His Majesty would have been advised on such matters after transfer of the Territories by His Majesty's Government in the United Kingdom.

31. In this connexion you desire that we should discuss together what form of alternative security for the populations of the Territories on these points could take the place of the above-mentioned provisions of the Schedule and you emphasize that before it would be possible to settle the terms of the documents mentioned earlier in this letter, this point would have to be considered.

32. This aspect of the matter has been very fully considered by His Majesty's Government in the Union, for it is bound up very closely not only with the constitutional position of the Union—a matter which is and must always remain of profound importance to His Majesty's Government in the Union—but also with the fair name of the Government and European population of the Union in relation to their treatment of the native peoples of the Union.

33. In the latter regard, it devolves upon me to say that for a very considerable time it has been a matter of profound regret and concern to His Majesty's Government in the Union that owing to the prevalence of fundamental misconceptions and tragic ignorance of the real implications of the Union's policy towards the native peoples of South Africa on the part of a large portion of the electorate and the public Press of the United Kingdom and owing to the systematic dissemination of misleading and prejudiced information by a variety of public bodies and individuals on the same matter both in the United Kingdom and in the Union, there appears to prevail a wholly unjustifiable view that the inhabitants of the Territories in question will not receive fair and equitable treatment from the Union.

34. The real fact of the matter is that His Majesty's Government in the Union of South Africa and their officials must of necessity have an infinitely better understanding of the natives of South Africa and should likewise be far more capable of dealing with the overwhelming and vital problems occasioned by the presence of a variety of races in South Africa than any other government or body of persons.

35. The broad lines of the Union's native administrative policy are reflected in the system of government which is applied to the huge native population of the Transkei and it is the intention of His Majesty's Government in the Union to continue and extend that system.

36. This system coincides in its broad aspects with the system contemplated by the Schedule to the South Africa Act, and as I have already stated, the Union Government intend to adhere to the provisions of the said Schedule.

37. I shall now revert to the question raised by you as to what form of alternative security for the populations of the High Commission Territories could take the place of sections 20 and 25 of the Schedule.

38. The attitude of His Majesty's Government in the Union on this point is the following.

39. In the first place, it seems necessary to analyse and determine the true effect that sections 20 and 25 of the Schedule may be considered to have had.

40. In this connexion it would hardly seem necessary to draw attention to paragraph 22 of the Report of the Imperial Conference on the Operation of Dominion Legislation and Merchant Shipping Legislation, 1929, in which it was stated with regard to the right of disallowance by the Crown on the advice of Ministers in the United Kingdom as follows:—

> "This practice did not however long survive for it was realized that under the conditions of self-government the power of disallowance should only be exercised where grave Imperial interests were concerned and that such intervention was improper with regard to *legislation of purely domestic concern*. In fact the power of disallowance has not been exercised in relation to Canadian legislation since 1873 or to New Zealand legislation since 1867; *it has never been exercised* in relation to legislation passed by the Parliaments of the Commonwealth of Australia or of *the Union of South Africa*."

41. Accordingly the Conference agreed that "the present constitutional position is that the power of disallowance can no longer be exercised in relation to Dominion legislation".

42. In only *one* respect was a reservation made in this connexion, viz., the special position in relation to the Colonial Stock Act, 1900.

43. It will also be recalled that in paragraph 29 of the said Report, the Conference in dealing with the effect of provisions in Dominion Constitutions relating to the reservation of Bills, *inter alia*, specifically referred to section 25 of the Schedule to the South Africa Act.

44. Nevertheless it was recommended *without reservation* in paragraph 35 that it was open to those Dominions which desired to abolish provisions in their Constitutions relating to reservation, to do so.

45. His Majesty's Government in the Union of South Africa accordingly hold the view that when regarded in true constitutional perspective, the practical effect of sections 20 and 25 of the Schedule always was and would have been of no importance and, indeed, of negligible value to the inhabitants of the Territories in question. Indeed, it was stated in the most explicit terms at the Imperial Conference of 1926 and accepted without question that the principles contained in the Declaration of 1926 laid down nothing new in so far as Dominion independence or freedom was concerned and that it merely declared the legal position of Dominion freedom as it then already existed and had existed for years. The Statute of Westminster went no further.

46. Secondly, regarding it from a purely administrative angle, His Majesty's Government in the Union find it difficult to understand how any efficient check or sound judgment could be exercised or formed by His Majesty's Government in the United Kingdom in regard to a multiplicity of considerations which would influence the Union Government in coming to a decision upon facts in respect of which no other government would have a first-hand acquaintance and no real means of forming a sound judgment.

47. I am persuaded to think that upon a frank and realistic consideration of the true effect of sections 20 and 25 of the Schedule, you will agree with me that the only real security upon which the inhabitants of the Territories could rely by virtue of, or rather, in spite of, the said sections,

would be a security based upon the sense of responsibility towards, and understanding of, the native peoples, which would determine every decision of the Union Government.

48. It is my duty to emphasize that it will ever be the attitude of His Majesty's Government in the Union that their policy and administration relating to the native peoples of South Africa is and must remain a matter "*of purely domestic concern*" in respect of which it would be inappropriate and even improper, to revive a constitutional theory which never in the Union's history has had any practical significance or to attempt to find for it any substitute which might have the semblance of an admission that His Majesty's Government in the Union is not completely qualified to fulfill the trust which rests upon them.

49. In the third place, you have been good enough to make certain suggestions relating to the further extension of practical measures such as the loan of Union technical officers to the Territories and to the desirability of relaxing the restrictions imposed in respect of the entry of cattle from the Territories into the Union.

50. With regard to the more extended loans of our technical officers and services, it is hardly necessary for me to say that the Union is prepared to do as much as possible in this direction.

51. In addition I would recommend the appointment of a joint advisory committee from among leading officials of the Union Government and the Protectorate Administration to consider and advise upon all necessary improvement schemes in the Territories, embracing such economic matters as water conservation and supply, soil erosion, afforestation, stock diseases, roads and transport, trade and so forth. In this way, with the technical and (where required) the financial assistance of the Union Government, surveys and plans of improvement and development could be jointly elaborated by the committee, which might considerably accelerate the rate of progress in the Territories.

52. I regret to say, however, that the question of removing or relaxing any restrictions relating to the entry of cattle is a most difficult one and wellnigh impossible of execution inasmuch as the political repercussions resulting therefore in the Union would be very serious indeed and would much embarrass His Majesty's Government in the Union.

53. His Majesty's Government in the Union could hope to face the hostility of Union farmers and other difficulties, both economical and political, which would arise from a relaxation of the present restrictions relating to the entry of cattle, only if such relaxation would follow as a necessary concomitant of actual transfer.

54. In other words, Union cattle farmers could be placated in this matter only if the Union Government were placed in a position to use the argument that the relaxation of these restrictions is an exigency arising out of the transfer of the Territories and also the additional argument that, as a result of transfer, the influx of cattle from yet other adjacent territories could be more effectively checked.

55. In the fourth place, you are good enough to enquire whether I have any further suggestions to make in connexion with this matter.

56. Acting on this, I desire to revert once more to a matter which from time to time has caused grave concern and misgivings to His Majesty's Government in the Union and which has more than once in the past seriously prejudiced the cordial relationships which on the whole, prevail between His Majesty's Government in the United Kingdom and in the Union.

57. I refer to the unfortunate lack of understanding in the United Kingdom of the Union Government's attitude towards the natives of South Africa and of their sincere desire to ensure a treatment of these people which will at once be fair and just to them (the natives) and at the same time be compatible with the maintenance and preservation of European civilization in the Union and the whole of South Africa. The agricultural and industrial progress which is proceeding apace in the Union and bringing in its train a multiplicity of new and unforeseen problems in which both the European and native populations are very vitally concerned, is regarded as a sufficient justification by His Majesty's Government in the Union for emphasizing the need of finding a method of enlightening and guiding public opinion in the United Kingdom in order to ensure not only a proper understanding of the true constitutional effect of sections 20 and 25 of the Schedule but also a better appreciation of the Union's real policy and aims towards the natives in South Africa and of the stupendous problems which it has to face and solve in this connexion.

58. If intelligent propaganda seems desirable in the High Commission Territories, it would seem equally desirable that in the United Kingdom the enlightenment of the public mind on a similar or possibly much wider basis should be undertaken. Such a step would be of far-reaching importance and would assist still further in ensuring the consolidation of that lasting goodwill between the Union and the United Kingdom for which His Majesty's Government in the Union stand.

59. His Majesty's Government in the Union would undertake to prepare the necessary literature in this connexion and would further be prepared to send representatives to the United Kingdom to present the cause of the Union, if His Majesty's Government in the United Kingdom considered action on such or similar lines desirable.

60. Secondly, under this head, I would suggest the desirability of filling future official vacancies in the Territories after consultation with His Majesty's Government in the Union. I refer to the correspondence which recently passed between us in this connexion and would also draw attention to the fact that the post of Resident Commissioner for Bechuanaland which recently became vacant has now been filled by the appointment of an official from Nigeria, whereas the vacancy might perhaps have been filled by an official more conversant with South African problems.

61. Thirdly, it becomes incumbent upon me to repeat with regret the Union Government's feeling that the efforts of His Majesty's officials in the Protectorates to discourage the agitation against joining the Union (to which you refer on page 7 of your letter) have so far met with very little success.

62. His Majesty's Government in the Union feel confident that if every effort were made on the part of officials in the Territories to counteract any attempt to prejudice the minds of the native inhabitants against the Union and actively to do their duty to inculcate friendly feelings on the part of the inhabitants towards the Union and sympathy towards the idea of transfer, positive results would become apparent within a very short time.

63. As I have said, it is a matter for regret with the Union Government that, if efforts have actually been made in accordance with the agreement arrived at between Mr. Thomas and myself in 1935 to produce a more friendly disposition on the part of the inhabitants of the Territories, these efforts have been productive of such meagre results.

64. I have already referred to the possibility that at some time in the future it may be found necessary to give Union representatives an opportunity of attending pitsos in order to elucidate the Memoranda setting out what the form of administration will be and what advantages to the inhabitants will accrue upon transfer.

65. Possibly His Majesty's Government in the United Kingdom may be able to suggest a method which would facilitate opportunities for direct contact between the inhabitants of the Territories and Union officials with a view to creating improved relations between the Union and the Territories.

66. In conclusion I wish once more to emphasize that, in the event of such incorporation, the intention of the Schedule to the South Africa Act will be strictly carried out and this will accordingly also apply in respect of equal trade between the Union and the Territories.

67. As a matter of fact, in spite of protestations by Union farmer congresses and organizations for years, the Union Government have, until quite recently, been able to maintain a policy of free trade between the Union and the Territories.

68. By the passing of the Marketing Act during the 1936 Parliamentary Session, however, the power of regulating the marketing of Union agricultural products has been placed in the hands of the Union producers. Boards of Control composed mainly of producers may, under the Act, obtain extensive and far-reaching powers to deal with the Union marketing problems. As is generally known, only the pastoral and agricultural products of the Territories are of any importance. It is conceivable that the representatives of the Union producers on the Boards of Control will not be so sympathetic towards the interests of the Protectorates

69. The Union Government will, in this event, not be able to interfere directly and it will only be by means of incorporation that the Territories will be assured of equal treatment by the various producers' Boards of Control. While outside the Union, the Territories must necessarily be looked upon by Union producers as importing countries and treated as such.

70. In terms of the Marketing Act, however, Control Boards, which may be established for the different products, may not discriminate between producers in the Union. If, therefore, the Territories were incorporated in the Union, they would receive equal treatment with other areas of the Union.

71. In other words, the Territories would be assured of equal trading opportunities in the Union's markets and no differential treatment would be applied to the Territories.

72. Finally, I agree that a public announcement in due course as to future policy in regard to the matter of transfer, prepared by us jointly, would be advisable.

73. I further cordially agree that close and frank co-operation is the only method in which this matter can be settled in the interests of all the peoples concerned.

Working Copy

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 7.15 p.m., 28th October, 1937.)

(Paraphrase.)

No. 185. Secret and confidential. 28th October. My telegram No. 180 secret and personal of 20th October*. Message for Sir Edward Harding:—

Begins.—I have now been able to discuss points referred to in telegram under reference with Resident Commissioner.

(1) Methods of submission of the Union statement of terms to natives. Publication of terms by Union Government was favoured by Richards and Clarke who thought that in the case of their Chiefs submission of terms confidentially would not be practicable. Since they would have to consult their Councillor and leakage would almost certainly occur. On the other hand McCarter thought that in the case of Sobhuza it might be best in the first place to submit statement of terms confidentially. I still think after listening to the discussion that publication would be the best course. This need not preclude copy of terms being shown to Sobhuza confidentially in advance if thought desirable.

As regards paragraphs 28 and 29 of letter Resident Commissioner would not object to a reliable Union official such as the Secretary for Native Affairs coming to the Territories and having an opportunity of answering any questions put to him by Chiefs, with the Resident Commissioner present. They were much more doubtful however, especially Richards as regards Basutoland, about the suggestion that representatives of the Union should attend pitsos, Kgotlas, etc. I imagine this is the outcome of the Union Government's theory that the natives are more favourably disposed to transfer than the Chiefs? I think we should discourage the suggestion, at any rate until we have been able to feel our way if and when the Union terms have been duly published.

(2) Joint Advisory Committee. There was agreement that this proposal in its present form is open to objection that it would involve undue interference with the administration of the Territories. We agreed finally to recommend that a counter suggestion on the following lines might be put to Union Government, viz., that a joint conference should be constituted consisting of the Resident Commissioners for each of the Territories, the Secretary for Native Affairs and such two other officers as Union Government may appoint, to consider openings for co-operation between Union Government and Administrations in matters affecting the development of the Territories and to consider any matters of joint concern to Union and Territories such as anti-locust campaigns, animal disease, prevention of bubonic plague, marketing of produce, etc. It would be difficult to produce agenda for frequent meetings of such a Conference. In practice it might meet only once a year simultaneously with my Resident Commissioners' Conference, but it would not be necessary at present to say anything specific on that point. It was agreed as regards financial assistance that this on a large scale such as was contemplated in 1935 would have to be barred, and that the question of financial assistance would have to be treated as a question of degree. Where possible it would be best to arrange that assistance should be given by provision without payment of staff machinery or material.

(3) Regarding the possible employment of Union officials in the Territories. It was felt that it would be useful if an agreement had been arrived at to hand over a particular Territory within a given time to bring one or two Union of South Africa officials into administrative work in advance although not in highest posts, so that they might familiarize themselves with the atmosphere and learn our methods of administration. It would hardly seem practicable apart from this to offer posts to Union officials and that being so the question whether we should promise consultation becomes one of expediency. Perhaps it would be sufficient to say that the Secretary of State would always inform the Prime Minister of proposed appointments of Resident Commissioners in advance in case he had any observations to offer.

In a general discussion on transfer question the following opinions were expressed as to attitude of natives. Richards said that Basutos were unalterably opposed but were remaining quiet at present as they had complete confidence in His Majesty's Government's promise of consultation. Clarke had not felt it desirable to discuss matter

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* No. ~~Y. 6/99~~ 20.

recently with Chiefs but thought Bakgatla and Barolong might be prepared at any rate to discuss the question. McCarter considered Swazis were definitely more resigned to incorporation than the others. He seemed to contemplate possibility that if terms were satisfactory, e.g., Sobhuza might possibly ask for some special concessions such as territorial expansion, they might be prepared to acquiesce in advance of other two Territories. I feel he may be somewhat optimistic in this respect.—*Ends.*

Y. 6/100.

No. 24.

PROOF.

TELEGRAM

~~to~~—

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4.4 p.m., 29th October, 1937.)

No. 186. 29th October. Following is Press report of statement made by Hertzog at the Orange Free State United Party Congress at Bloemfontein on Wednesday speaking on a Resolution that the time had arrived for the three Protectorates to be incorporated in the Union.

Begins.—" I have recently received a letter written on behalf of the British Government which bears out what I said on my arrival in South Africa on my return from Europe namely that I had the fullest confidence that the British Government when it came seriously to consider this question of the transfer of the Territories to the Union would feel that our request for transfer is one which is in every way due to be effected.

To the letter I have received I have already sent a reply. I have the fullest confidence that the British Government having given due consideration to the claims of the Union is prepared to consider this question further. I am quite convinced that it will not be long before the undertaking of the British Government made in 1910 that these Territories would be transferred to the Union whenever the Parliament of the Union was to take a Resolution on these lines will be given effect.

I am glad that it is not the intention of the Congress to say anything more on this question for I would be the last to desire that anything should be done which might embarrass the British Government in this matter. I feel quite sure that the British Government is earnestly endeavouring to put itself in a position to give effect to the undertaking of 1910.

I would not ask you not to vote on this Resolution—indeed I would ask you to vote for it—but let us have no more discussion on this matter for reasons which I have stated. I would not like it said that I have allowed discussion to take place which might cause embarrassment in one way or another to our friends in England ".—*Ends.*

Resolution is stated to have been passed unanimously.

S.A.H.C. Territory—(C.28438/181). 24.

Y. 6/97. No. 25. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 11.30 p.m., 3rd December, 1937.)

(Paraphrase.) [transmitted by No. 30.]

No. 180. Secret. Reference your letter to Sir Edward Harding of 16th October* regarding the draft letters from General Hertzog. Best plan, if you agree, seems to be for this exchange of views to be continued in discussion between General Hertzog and yourself. It seems important to concentrate on consideration of practical action, which should become clearer when the Memorandum which the Union Government are preparing is received, and to avoid so far as possible a purely theoretical discussion as to exactly how far the officers in the Territories can properly go in assisting to obtain the good will of the natives towards the idea of transfer. As regards General Hertzog's observations on this point, I think you can only point out that it seems clear that he must have derived from his talk with Mr. Thomas an impression which cannot be reconciled with the documents in our possession; that the letter sent to you, with his concurrence, on the 21st May, 1935†, embodied the whole substance of the record of the talk made by Mr. Thomas at the time; that the officials in the Territories have loyally carried out the instructions in that letter, and that he will remember that when following his statements in the Union House of Assembly in 1936 the position was discussed with him by Sir Cecil Fforde, he authorized a statement confirming that there was no agreement or understanding apart from that in the *aide-mémoire*, and that as regards the question of instructions to officials the statements which he had made were " merely intended to express his views that it is a necessary implication of the agreement in the *aide-mémoire* that instructions would be issued to these officers to discountenance efforts to influence the natives against transfer and to assist loyally and wholeheartedly in bringing to the notice of the population of the Territories the benefits provided by the Union as and when such benefits are conferred ". (See your telegram No. 114 confidential of 3rd July, 1936‡.)

I am quite prepared to accept this statement of the position and the question of the best means of bringing before the Native Authorities in the Territories the proposed Union Memorandum will receive very careful consideration.

With regard to the matter discussed in paragraphs 39-48 of the draft letter essential point of course is that provisions in sections 20 and 25 of Schedule constitute part of the safeguards which the Schedule was designed to secure and as pointed out in part 2 of the Memorandum appended to Cmd. 4948 we are pledged not to support any proposal for transfer if it involved the impairment of such safeguards. Our understanding is that reason why Conference on Operation of Dominion Legislation did not deal with position which would arise in regard to provisions in question in the Schedule was that this was a matter for the future which would not have to be settled until transfer was proposed and did not require immediate consideration as did the position in relation to the Colonial Stock Act. We do not think that from the report of the Conference it can be argued that they would have taken the view that no substitute for these provisions in the Schedule would be proper and it will be seen that it was pointed out in the comments on reservation in paragraph 31 of the Report that " it gradually came to be realized that the attainment of the purposes of reservation must be sought in other ways than through the use of powers of the Government of the United Kingdom ". As regards the nature of the appropriate substitutes to be adopted in the event of transfer I think that (1) to replace section 25 there should, as explained in my letter of the 30th July§, be an Agreement between the two Governments which would include an undertaking from the Union Government to maintain the scheme of the schedule (subject to any modifications previously agreed) and not to depart from it without consultation with the United Kingdom Government (2) as regards section 20, while His Majesty's Government in the United Kingdom would not of course wish to intervene in administration of the Territories once they were transferred, the Union Government should at least agree that it should be placed on record that they would be prepared to consider any representations which the United Kingdom Government might feel it necessary to make in regard to any Proclamations for the Territories made by the Governor-General in Council which appeared to the United Kingdom Government to conflict with undertakings which might have been given to the inhabitants of the Territories prior to and

* Y. 6/97 not printed. † No. ~~[illegible]~~ 19 in [illegible] ‡ No. 87 in [illegible] § No. ~~Y. 6/80~~ 12.

~~S.A.H.C. Territory (C. 28438/177)~~. 24. (South African) No. 6. (South African) No. 6.

in connexion with transfer. I hope that you will be able to secure assent of General Hertzog to action on these lines and to the inclusion in the proposed Memorandum of a suitable reference to the matter.

As regards the other points arising out of letter I agree generally with suggestions in your telegram No. 185 of 28th October*, though we must defer definite decision as to method of submission of the Union Memorandum to the Natives until the document is received. As regards question of propaganda in this country you could say that I must leave this to Union Government's judgment, but that United Kingdom Government would not wish to stand in the way of whatever action in this direction the Union Government desired to take. You might however make it clear to General Hertzog that feeling in this country on the subject must be mainly influenced by the attitude of the natives of the Territories.

I agree that as suggested in your telegram No. 189 of 1st November†, you might make further contact with Sobhuza on the subject when you visit Swaziland.

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* No. ~~X. 6/99~~. 23.

† Y. 6/103. not found

Y. 6/113. No. 26. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 6.53 p.m., 6th December, 1937.)

(Paraphrase.)

No. 205. 6th December. Following message for Sir E. Harding:—

Begins.—As arranged during our talk on the telephone yesterday, I am telegraphing in my immediately following telegram a rough draft of a joint statement to be issued by Hertzog and the Secretary of State in regard to the transfer of the Territories for consideration. You will appreciate of course that I cannot say whether something on these lines will appeal to Hertzog.—*Ends.*

S.A.H.C. Territory—(C.28438/187). 24.

Y. 6/114. No. 27. PROOF.

TELEGRAM
from
HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 7.19 p.m., 6th December, 1937.)

(Paraphrase.)

No. 206. Secret and Personal. 6th December. Please refer to my immediately preceding telegram No. 205*. The following is a rough draft of the joint Statement to be issued by General Hertzog and the Secretary of State for Dominion Affairs:—

Begins.—We took the opportunity during General Hertzog's visit to England in May and June to discuss the situation in regard to the transfer of the Administration of the High Commission Territories to the Union Government, and have since continued our communications on the subject.

With regard to the principles involved, His Majesty's Government in the United Kingdom entirely accept the view expressed by General Hertzog in a speech in London in May 1935, that section 151 of the South Africa Act (which deals with the transfer of High Commission Territories to the Union) had a meaning and intention.

His Majesty's Government in the United Kingdom fully recognize the significance of the section and do not seek to minimize it. At the same time the position of the United Kingdom Government is also necessarily governed by pledges which were given during the passage of the South Africa Bill through the United Kingdom Parliament in 1909—namely that the transfer should not take place until the wishes of the natives of the Territories had been most carefully considered and that before such transfer the fullest opportunity should be given to the British Parliament to express its views. Bearing in mind these fundamental conditions we have been jointly studying what is the best and most practical course to pursue.

We have had especially under consideration the progress made with the policy of co-operation adopted two years ago, the aim of which was to demonstrate to the people of the Territories, the good-will felt towards them by the Union Government and so to help in securing on their side their good-will towards the idea of transfer. The Union Government in pursuance of this policy generously proposed to share the cost of certain important development schemes which the British Government were initiating in the Territories, and the British Government gladly accepted their offer. Unfortunately, however, the native authorities in the Territories came to suspect, quite erroneously, that some condition regarding the transfer of some or all of the Territories within a set year was attached to the Union's financial offer, and in view of the uneasiness thus created the two Governments agreed that it would be best to abandon the proposal for the time being, nevertheless it seems to us that, putting aside for the moment large financial schemes of this kind, there is room for a closer co-operation on lines which have not yet been fully explored. We have therefore agreed to constitute a Standing Joint Advisory Conference consisting of the Secretary for Native Affairs Department and two other Officers of the Union Government together with the Resident Commissioners of the three High Commission Territories, whose function it will be to study openings for co-operation between the Union Government and the Administration in matters affecting the development of the Territories and to consider any matters of joint concern to the Union and the Territories such as the marketing of produce, prevention and control of animal diseases, prevention of bubonic plague, etc.

It has also seemed desirable to us that the natives of the Territories should have before them a clear picture of the terms on which transfer would take place if decided upon. Such terms would naturally follow closely the provisions of the relevant schedule to the South Africa Act 1909 but it seems to us important that they should be set out in a more convenient and more complete form, so that the natives may fully appreciate the conditions under which the transferred Territories would be administered; the position in regard to the maintenance of their tribal institutions; the advantages which would accrue to them from the removal of the restrictions on the entry of their produce into the Union and so on. We have accordingly agreed that a Memorandum setting forth the terms which they would propose should be prepared by the Union Government and that this Memorandum should be made available for the information of the natives of the Territories. We are also agreed that the Union Government should prepare a similar Memorandum with regard to European settlers. We feel that this step will be very helpful in clarifying the whole question.—*Ends.*

Document will be much more effective of course if it is possible to append statement of terms to it.

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* No. ~~Y. 6/113~~ 96.

S.A.H.C. Territory—(C.28438/183). 24

Y. 6/112. No. 28. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 9.15 p.m., 6th December, 1937.)

[*Answered by No.* ~~Y. 6/113.~~ 29.]

No. 181, Secret. With reference to your conversation with Harding to-day. Please convey following confidential message from me to General Hertzog:—

Begins.—I am very sorry that owing to my absence for three weeks in Brussels and later private preoccupations it has not been possible for me to send you an earlier reply to your draft letters on the subject of the High Commission Territories. You will I feel sure appreciate that in the circumstances some delay has been unavoidable. But I have now studied your draft letters carefully, and am glad that you wrote, as I did, frankly.

I share your view that the draft letters which we have exchanged should stand unaltered and I hope that this exchange of views will enable us now to work out, in consultation together, the next steps, to be followed when we are ready by an agreed statement for publication. I shall be very glad to receive the documents which you are having prepared and will study them most carefully. In the meantime, I think that the points arising on your and my draft letters which can receive immediate consideration could best be dealt with in personal discussion between yourself and Sir William Clark and I am asking him to get in touch with you accordingly.—*Ends.*

S.A.H.C. Territory—(C.28435/170). 24.

* No. 22.

Y. 6/115. No. 29. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 10.30 a.m., 8th December, 1937.)

(Paraphrase.)

No. 210. Secret. 8th December. Your telegram No. 181 secret*. Yesterday I handed to the Prime Minister your message. He wished me to say that he understood the cause of the delay and appreciated the message.

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* No. ~~Y. 6/112~~ 28.

S.A.H.C. Territory—(C.28438/185). 24.

Y. 6/117. No. 30. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4.28 p.m., 8th December, 1937.)

[*Answered by No.* ~~Y. 6/117.~~ 32.]

(Paraphrase.)

No. 211. Secret. 8th December. Your secret telegram No. 180*.

(1) Yesterday afternoon I had a very satisfactory talk with the Prime Minister.

(2) We took the question of Mr. Thomas' conversation and its relation to the *aide-mémoire* first, and I put your points to him on the line which I thought would be least likely to cause irritation. He finally accepted the proposition that in view of the exchange of letters which has taken place this question might now be considered as closed, and that we might direct our efforts to preparing a joint statement for publication on the points on which we are in agreement. I told him that you accepted his interpretation of "acquiescence" as equivalent to "goodwill towards the idea of transfer" and that you agreed to his proposed interdepartmental advisory body as a means of forwarding co-operation with a view to promoting goodwill. He agreed that this would be a good point for the published statement.

(3) During this part of our talk the Prime Minister embarked on a lengthy digression on the theme that unless our officers were told that it is the British Government's intention to hand over the Territories and are instructed to prepare the way no progress would be made. He is still inclined to suspect our officers of working against the transfer but except for the usual allegations against Rey was unable to produce a concrete case. He was equally insistent apart from this that an attitude of strict neutrality would be almost as unhelpful, e.g. if the chiefs asked for advice about transfer and the official concerned felt unable to give any. I said I hope correctly that I should not as High Commissioner feel myself debarred from discussing the pros and cons in such circumstances although I should be extremely careful to exercise no influence in either direction. It seemed to me that such assistance might help to clarify the issues.

(4) I next asked him about progress with the statement of terms, and he promised to enquire, and contemplated its early production. In this connexion I raised the question of substitute safeguards in place of sections 20 and 25 of the schedule. I thought it best to base our contention mainly on the question of expediency, and this proved more acceptable than I expected. He invited suggestions so I pointed out that on transfer it would presumably be necessary to have some exchange of notes or instrument of agreement, and suggested in general terms that this might perhaps include a declaration by the Union Government of their intention not to depart from the principles of the schedule, and of their willingness to consult His Majesty's Government in the United Kingdom should it appear desirable to do so. The Prime Minister much to my surprise thought that this might be possible, but when he has had time to consider it of course it may well prove less acceptable.

(5) As regards minor points we had a useful talk about propaganda in the United Kingdom. He has become a little nervous of it himself, an attitude which I did my best to encourage unobtrusively. As regards paragraph 54 of his letter† he said that Rhodesian cattle smuggling into the Bechuanaland Protectorate and thence into the Union was what he had had in mind.

(6) It was arranged that I should send him an *aide-mémoire* of our talk. Before doing so I should be glad to have your views especially with regard to point in paragraph 4. I think our chance of getting his agreement to consultation about the proposed change will be better if the declaration is couched in some such general terms as I have indicated, but I do not know whether these will be regarded by the House of Commons as sufficiently specific.

(7) It was agreed that I should send him a signed copy of your letter which is in my possession and that he should send me a signed copy of his.

(8) The Prime Minister has now changed his plans again and leaves Pretoria to-day but he proposes to be here on the 15th for one day. I shall probably be away for Swaziland functions from 28th December to 31st December.

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* No. ~~Y. 6/97.~~ 25.

† Enclosure in No. 22.

~~S.A.H.C. Territory—(C.29438/184).—24.~~

Y. 6/116. No. 31. PROOF.

41

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 1.55 p.m., 8th December, 1937.)

(Paraphrase.)

No. 212. Secret. 8th December. In continuation of my telegram No. 211*. The question of the action to be taken regarding the proposed joint document for publication still remains. I would suggest that it would be best for us to take the initiative in preparing a draft and I prepared draft forwarded in my Cypher telegram No. 206† with this in mind. I suggested rather hastily in the note at the end of that telegram that the statement of the Union's terms might be appended to the draft. I think it would be useful if it could be issued at the same time, but in order to make it clear that it is a purely Union document it might be safer to keep it separate.

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* No. ~~Y. 6/117~~. 30.

† No. ~~Y. 6/114~~. 27.

S.A.H.C. Territory—(C.28438/186). 24.

Working Copy

Y. 6/117. No. 32. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 1 a.m., 15th December, 1937.)

(Paraphrase.) [Summarised by Nos. 33, 34 and 36]

No. 189. Secret. Your telegram No. 211 of the 8th December*.

I am very glad to learn that basis has been reached for preparing statement for publication and that your talk with General Hertzog was so satisfactory. The following are my observations on main points referred to in your telegram:—

(1) In informing General Hertzog that I agreed to "his proposed interdepartmental advisory body" I assume that you made it clear that what was contemplated was joint conference of nature referred to in section (2) of your telegram No. 185 of 28th October†.

(2) I agree with line which you took as regards your attitude in any discussion with Chiefs about transfer. If this point should be pursued by General Hertzog you could refer to instructions in Mr. Thomas's letter to you of 21st May, 1935‡, which have already been communicated to Resident Commissioners, viz., the best way to create right atmosphere was to discourage agitation against joining the Union and to work for success of such co-operative measures as might be found possible. These instructions in substance, still seem, as far as we can go. As you know I explained to General Hertzog when in London that I could not agree to specific instructions to the officials to use their influence positively to persuade the natives to agree to transfer. You might however add that the Resident Commissioner will of course be instructed to bring to the notice of the Native authorities the Union Memoranda and to assist them in obtaining any explanations of those Memoranda which they might desire. You could in this connexion refer to proposal for giving facilities to a Union official to visit the Territories (see your telegram No. 185 of 28th October†).

(3) As regards safeguards in place of sections 20 and 25 of Schedule I should be prepared to accept as substitute for section 25 declaration by Union Government that they would maintain scheme of schedule and not depart from it without consultation with United Kingdom Government. In order however to meet possible Parliamentary criticism here and also I imagine to reassure native opinion in the Territories it would certainly help if something additional could be obtained in place of section 20. It occurs to me on further consideration that in place of suggestion on this point in my telegram No. 180 of the 3rd December§ declaration proposed above by Union Government might be slightly expanded so as to read that "the Union Government would consult with the United Kingdom Government as to any proposal for any alteration of the terms of the Schedule and also if any legislation relating to the Territories were proposed involving variation of arrangements agreed between the United Kingdom and Union Governments prior to and in connexion with the transfer of any of the Territories." I should like you to suggest to General Hertzog, as from yourself, if you see no objection, that the declaration might be something on these lines, making it clear however that wording suggested is tentative and that naturally any wording should so far as we are concerned have ultimately to be considered by the Cabinet here.

(4) I feel that as wording of *aide-mémoire* of your talk which you undertook to prepare, may be important for future reference, it might be desirable that before it is communicated to General Hertzog I should have an opportunity of seeing it. I should be glad therefore if when it is ready you could telegraph its terms. I gather that you have not promised to let General Hertzog have the note by any definite date and therefore that slight delay involved will I hope not be inconvenient.

(5) I suggest that you should continue to press for production of the Union Memoranda as soon as possible, explaining to General Hertzog that until these are ready it will be difficult to make progress. In this connexion I assume that although the Union Government will of course be solely

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* No. ~~Y. 6/117~~. 30.
† No. ~~Y. 6/99~~. 23.
‡ No. ~~10091/234~~. 19 in Sam (Sent 9 pm) No. 6.
§ No. ~~Y. 6/99~~. 25.

~~S.A.H.C. Ter. (C.28438/179). 94~~

responsible for contents of Memoranda, we shall have an opportunity of seeing them in draft since we might have some comments on their form and in any case have still to discuss with Union Government best method of presentation to the Native authorities in the Territories before they are published.

It would seem best not to publish the draft document until Union Memoranda are ready for simultaneous issue. Draft communicated in your telegram No. 206 of 6th December* will be most helpful but apart from other smaller points I have considerable doubt as to wording of first sentence of paragraph 4 and as to wisdom of introducing the controversial matter in the next two sentences. I should however prefer to reserve for further consideration detailed comments on its terms and it is difficult in any case to settle its exact form until we have seen the Union Memoranda. Presumably it will in the meantime be sufficient for you to let General Hertzog know that you propose to let him have later suggestions as to a joint statement which could be published at the same time as the Union Memoranda.

Personal from Harding.

Secretary of State asks me to add that if you have any difficulty about above points he would like you to telephone to me to-morrow morning before seeing Hertzog.

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* No. ~~Y. 6/114.~~ 27.

Y. 6/121. No. 33. PROOF. 43

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 2 p.m., 15th December, 1937.)

[*Answered by No.* ~~Y. 6/121~~ 35.]

(Paraphrase.)

No. 215. Secret. 15th December. Your telegram No. 189 of the 14th December*. Text of draft Memorandum of conversation between General Hertzog and myself on Tuesday, 7th December, is as follows:—

Begins.—It was agreed that questions arising out of conversation between General Hertzog and Mr. Thomas had been dealt with in exchange of letters between Mr. Malcolm MacDonald and General Hertzog and that it was desirable now to proceed to the preparation of a joint statement to be issued by them covering the points on which His Majesty's Government in the Union of South Africa and His Majesty's Government in the United Kingdom are in agreement.

Sir William Clark said that Mr. MacDonald accepted the interpretation in General Hertzog's letter of the word "acquiescence" in the Aide Memoire of the 15th May, 1935†, as equivalent to "goodwill towards the idea of transfer" and that Mr. MacDonald agreed to General Hertzog's proposal that an interdepartmental advisory body should be set up, consisting of leading officials of the Union Government and of the High Commission Territories, to consider and advise upon openings for co-operation between the Union Government and the Administration of the Territories in matters affecting the development of the Territories and upon questions of joint concern such as animal diseases, anti-locust campaign, marketing of produce, etc. It seemed to Mr. MacDonald that a standing advisory conference of such officials would be more suitable than an advisory committee. It was agreed that institution of such a conference would be a useful subject to include in the proposed joint statement for publication.

As regards the statement of terms on which the Union Government contemplated that transfer should take place when necessary conditions have been brought about, General Hertzog said that this was in preparation by the Departments concerned and would shortly be ready. In this connexion the question arose of possible safeguards in substitution for those provided under sections 20 and 25 of the schedule to the South Africa Act.

Clark explained that while Mr. MacDonald appreciates Union Government's difficulties in the matter it seemed very important from the point of view of possible re-actions alike in British House of Commons and among the native territories, that something should be put forward in place of statutory safeguard. He suggested that in any event some form of agreement or exchange of Notes would be necessary in regard to details of transfer and that it might be possible to include in such instrument a declaration by the Union Government of their intentions which had already been expressed in General Hertzog's letter to Mr. MacDonald, not to depart from the terms of the schedule, and of their willingness, if it should seem desirable to make any change, to consult beforehand His Majesty's Government in the United Kingdom, in case the latter should have any observations to offer. General Hertzog seemed to think that this might be practicable.

It was agreed that it would be desirable to proceed at once with the consideration of a joint statement for publication to be issued by General Hertzog and Mr. MacDonald.—*Ends.*

After I have seen Hertzog, further telegram will follow.

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* ~~Y. 6/117: not printed.~~ No. 32.

† No. ~~10991/233.~~ 18 in [illegible] (South African) No. 6.

~~S.A.H.C. Territory—(C.28143/168). 24.~~

Y. 6/119. No. 34. PROOF

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 1.35 p.m., 15th December, 1937.)

(Paraphrase.)

No. 216. Secret. 15th December. Your telegram No. 189 secret*. Prime Minister has asked me to postpone interview regarding the transfer of the Territories till Monday morning as stated in my telegram Dominions No. 219 of to-day†. It is therefore important that by the end of the week I should have your views on the draft Memorandum of my talk with Hertzog on the 7th December (see my cypher telegram No. 215 of to-day‡.)

The instructions and comments contained in telegram under reference have been noted and I have no observations to offer on them pending talks with Hertzog.

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* ~~Y. 6/117: not printed.~~ No. 32.

† T. 766/4/9: not printed.

‡ No. ~~Y. 6/121.~~ 33.

S.A.H.C. Territory—(C.28143/109). 24.

Y. 6/121. No. 35. PROOF

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 7.30 p.m., 17th December, 1937.)

(Paraphrase.)

No. 192. Secret. Your telegram No. 215 of the 15th December*. I agree with your draft Memorandum with the exception of some amendment to the beginning of first paragraph which I feel would be desirable, as present wording seems liable to interpretation that we have tacitly accepted General Hertzog's statements as to what was agreed in 1935. The following I would suggest, might be substituted:—

"It was agreed, after a further exchange of views, that the questions arising out of the conversation between General Hertzog and Mr. Thomas, which had been dealt with in the exchange of letters between Mr. Malcolm MacDonald and General Hertzog, and about which there was some divergence of view, need not be further pursued and that it was desirable, etc."

In communicating the Memorandum to General Hertzog I presume that you would supplement what is said in the penultimate paragraph (as to the substitutes for sections 20 and 25 of the Schedule) with a further suggestion based on section 3 of my telegram No. 189 of the 15th December†.

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* No. ~~Y. 6/121~~ 33.

† ~~Y. 6/117: not printed.~~ No. 32.

S.A.H.C. Territory—(C.28143.167). 24.

Y. 6/123. No. 36. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 6.20 p.m., 20th December, 1937.)

(Paraphrase.)

No. 219. Secret. 20th December. Your telegram No. 189 of 14th December*. I saw the Prime Minister to-day between the two visits to his dentist but time was short, and I had to deal first with matters which I have reported upon in my telegrams Dominions Nos. 223† and 225‡. It was not practicable in these circumstances to make any substantial progress.

I handed the Prime Minister signed copy of your letter dated 25th September§ and also Memorandum of our conversation on 7th December as amended in the light of your telegram No. 192 of 17th December‖. I explained that progress with the draft statement for publication would be greatly facilitated if we could have the Union Government document of terms. The Prime Minister seemed very confused about this and I doubt whether any further progress has been made. He asked whether I had spoken to Bodenstein and this will at least enable me to tackle Bodenstein (who has been on leave for the last three weeks) about it when he returns in a couple of days. I do not think Hertzog was making difficulties; it just happened that his memory was at its haziest. He agreed that it was desirable to issue simultaneously the agreed statement and document of terms.

I referred to substitute for sections 20 and 25 of the Schedule but it seemed useless in the circumstances to do more than say I had been thinking over the matter further and would like to submit a somewhat fuller formula than that which I had suggested at our last meeting. I then left with him a Note on the lines indicated in your telegram under reference. The Note made it clear that the suggestion came from me and had not been submitted to United Kingdom Cabinet.

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* No. ~~Y. 6/117~~ 32. † ~~Y. 1/148 not printed~~ No. 150 — No. 170. ‡ No. T. 766/4/14 — No. 185. § Y. 6/83; not printed. ‖ No. ~~Y. 6/121~~ 35.

S.A.H.C. Territory—(C.28438/190). 24.

Y. 6/128. No. 37. PROOF.

TELEGRAM.

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 6.5 p.m., 31st December, 1937.)

(Paraphrase.)

No. 223. Secret. 31st December. My secret and personal telegram No. 189 of 1st November*.

I had a talk on Wednesday, 29th December, with Sobhuza at Mbabane. He was accompanied by two of his Chiefs on whom he particularly relies, and the Resident Commissioner, Priestman and McCarter were also present.

I told Sobhuza that it had been agreed that a statement of the terms should be prepared by the Union Government in order to further elucidate the position, but made it clear at the same time that this did not mean that we contemplated formal " consultation ". I said that in view of our previous talks I thought he would welcome this step and I should be glad to have any comments as to his probable attitude and that of his people which he might care to make. He was if anything more cautious in what he said than before, possibly because of the presence of his two councillors, and said he would be glad to consider any terms but that if his people were to be influenced the terms would have to be very good indeed. He went on to ask rather to my surprise whether there would be any objection to a Union official being invited to come to Swaziland to expound the terms and answer questions. I gave him a non-committal reply, adding that if this were arranged it would be understood that the Resident Commissioner would be present at the discussion. It looks rather as if he may be contemplating asking some concession special to Swaziland, such as the incorporation of Swazis now in the Union. While he was naturally cautious, he did not at any time in our talk take up a *non possumus* attitude about transfer.

In order to avoid any possibility of misunderstanding I was at pains to emphasize once more that in no event would there be any departure from the undertakings given by His Majesty's Government in the past. I impressed upon him that our talk must be regarded as strictly confidential.

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* Y. 6/103: not printed.

S.A.H.C. Territory—(C.28438/188). 24.

Y. 6/141. No. 38. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

GENERAL J. B. M. HERTZOG, M.P. (PRIME MINISTER OF THE UNION OF SOUTH AFRICA).

[Answered by No. 52]

DEAR GENERAL, Downing Street, S.W.1, 27th January, 1938.

Thank you for your letter of the 29th December* on the subject of the transfer to the Union of the government of the South African High Commission Territories. I am glad that you set out your views, as I did in my letter of the 25th September† to you, frankly and fully.

I do not think that we need prolong our correspondence since we have agreed that the discussion should be continued with you by Sir William Clark, and indeed he has already been in touch with you on the subject. I ought however to mention—as Sir William has, I understand, already explained verbally to you—that it seems clear that you must have derived from your talk with Mr. Thomas in 1935 an impression as to the procedure contemplated in connexion with the agreement then reached which is different from that which I get from the relevant documents here. But we have agreed that there is no reason why the divergence of view on this should stand in the way of our reaching agreement as to further practical action. I am glad that you have arranged that memoranda should be prepared for the information of the inhabitants of the Territories, both Native and European, on the lines suggested in my letter of the 25th September, and that your discussions with Sir William Clark are making good progress.

With kind regards,

Yours, &c.,

MALCOLM MACDONALD.

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* Y. 6/141: not printed. † Y. 6/83: not printed.

S.A.H.C. Territory—(C.28438/189). 24.

Y. 6/147. No. 39. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 2.40 p.m., 3rd February, 1938.)

No. 26. 3rd February.

Following is extract from address of welcome presented by Paramount Chief Sobhuza to Resident Commissioner, Swaziland:—

Begins.—Sir, you have come to Swaziland at a time when this Nation feels it needs the affection, protecting hand and power of His Majesty the King, Emperor, and the British Government as never before and vice versa when the nation needs a champion to remind His Majesty and the British Government what Swaziland in the past has done and sacrificed for the cause of England in this country and across the seas. I need not repeat here what I have said before in the public Press on behalf of the Swazi nation, namely the Swazi nation trusts and depends upon the promises made to us by the British Government and that therefore we should not fear about our future as a British Protectorate.—*Ends.*

S.A.H.C. Territory—(C.28926/204). 24.

Y. 6/148. No. 40. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 2.37 p.m., 3rd February, 1938.)

(Paraphrase.)

No. 27. Confidential. 3rd February. My immediately preceding telegram, No. 26 of to-day's date*, contains an extract from the address of welcome delivered by Sobhuza to Bruton. Sobhuza's language as you will see now definitely suggests hostility to transfer as against the more or less open mind indicated in his private talks with me. This looks as if he had found a growing weight of opposition to transfer among his counsellors in the meantime.

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* No. ~~Y. 6/147~~. 39.

S.A.H.C. Territory—(C.28926/203). 24.

Y. 6/151. No. 41. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.52 p.m., 7th February, 1938.)

(Paraphrase.)

No. 33. Secret and Personal. 7th February.

Your telegrams secret and personal of the 4th February*†.

I have had two talks with Smuts on the question of formula to be substituted for safeguards in sections 20 and 25 and situation is greatly improved. Your difficulties were appreciated much more clearly by Smuts than Hertzog and the former also disliked the latter's formula about consultation with natives. I gather he used this aspect with characteristic astuteness as an argument for reopening the question with Hertzog on lines that undertaking to consult natives would not be regarded favourably in (? group omitted) and might in their own reserves prove an inconvenient precedent. I had not received your telegrams of the 4th February then but I imagine that you will not object to omission of consultation of natives if we can thereby get a reasonably close approximation to our own formula.

Following modification will now be made in document A section (*a*) paragraph 2. Delete subsequent words after "undertake" and substitute "to consult with His Majesty's Government in the United Kingdom in case the latter should have any observations to offer and to give due consideration to such observations before making any change". This will be submitted to the Cabinet and it is of course possible that other Ministers may make difficulties on the ground, which is undoubtedly true, that the formula will expose them to Malanite criticism. It was evident from a further talk which I had with Smuts at a party on Saturday that he realizes that demand for transfer is not so universal as Hertzog thinks and that when full implications are realized transfer may not prove too popular. I have always held this view as you know. From what Smuts let drop I think that he is not unlikely to advocate in the Cabinet postponing publication of the Union Memoranda until after the election. On the other hand he wants the joint statement issued as soon as possible.

I think on the whole that this postponement would be an advantage. Tactically we should certainly score: the most prejudiced could hardly charge us with responsibility for delay and we should have a good answer to the "Burning Question" argument in future. In the territories the delay will probably prolong suspense, but I am afraid that there is bound to be suspense, in one form or another, with its concomitant disadvantages, until the question is finally decided. The effect of this on the interior economy of the territories should be minimized however by the sympathetic consideration that His Majesty's Government in the United Kingdom have extended to the scheme of amelioration and development for the benefit of the population of the territories.

I have told General Smuts that I am communicating the text of his new formula.

So far as the joint statement itself is concerned, I should have thought, if anyone argues that it goes beyond the *aide-mémoire* of 1935‡, that there was a complete answer. I imagine this could only be contended in respect of the last paragraph. That is new, but the aim is simply to secure that the situation in the event of transfer should be clearly before the population of the Territories—and incidentally the United Kingdom Parliament —so that consultation may be a real thing. It is, in fact a complement of the obligation assumed in 1909 and 1919. Possibility of misunderstanding would, I should think, be diminished if publication of the Union Memoranda should be postponed.

Telegram will follow containing my comments on the revised Memoranda.

It would be advisable I think for Resident Commissioners to see the Union Memoranda now that, apart from documents E, Native policy, and F, amendment of section 12, which I understand are not yet ready, the text to be submitted to the Union of South Africa Cabinet has been settled. I am therefore having copies of papers sent to them.

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* Y. 6/144: not printed. † Y. 6/149: not printed. ‡ Cmd. No. 4948.

S.A.H.C. Territory—(C.28926/205). 24.

Y. 6/152. No. 42. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 8th February, 1938.)

(Paraphrase.) [treated by No. 43]

No. 34. Secret and Personal. 8th February.

PART I (Received 10.30 a.m.).

Your telegrams secret and personal of 4th February*†. My observations on the Union documents are as follows:—

Document A. As regards section (*a*) please see my telegram No. 33 secret and personal of 7th February‡. I have no other observations on this section or on section (*b*). Section (*c*) may not satisfy Europeans in Swaziland who have asked in the past for an additional Parliamentary representative for territorials. Under section (*c*) they will probably be split up and included in two or three existing Union constituencies. Hertzog was prepared in 1928 to meet their views—see enclosures in Athlone's secret despatches of the 30th July and the 14th September 1929, Nos. 67 and 70 in Dominions S.A. No. 1. It must however be admitted that on merits the proposed arrangement does not seem unreasonable.

PART II (Received 11.6 a.m.).

Whereas the whole of the Swaziland European population is less than 3,000 the number of registered voters in the Union constituencies is rarely less than 5,000. Legislation in accordance with the provisions of section 152 of the South Africa Act would be required to create new constituency also material inducement to Europeans to accept transfer are much larger now than in 1926. I do not know what the views of Bechuanaland Protectorate Europeans are on the point.

Document C. (1) Introductory. This is an improvement on the earlier statement of the possible disadvantages if transfer does not take place at an early date. See my telegram No. 15 secret§ and my telegram No. 16 secret and personal‖. It remains however a tendentious statement which does not give the whole case. For instance it is true that Union manufactured goods imported into the Territories are not produced in the territory, but it is owing to Union's protectionist policy that our natives have to pay unduly high prices for them and the Union of South Africa benefits at our people's expense.

PART III (Received 11.55 a.m.).

In the next paragraph " Important exception " of cattle is so important that it largely nullifies the suggested benevolence of the Union Government. The only other competing export of any magnitude from the Territories to the Union is butter which being subject to levy assists to subsidize the export of the Union surplus. Tobacco is also subject to levy for similar purpose and there is no justification for the suggestion that imports from Swaziland are responsible for the policy of compulsory exports. The only substantial imports come from Southern Rhodesia. Hard Basutoland wheat does not compete to any extent with soft wheat produced in the Union and indeed is required by Union millers.

As regards cattle the figure has now been reduced from between 75,000 and 100,000 in the earlier statement to 30,000 per annum. Bechuanaland Protectorate and Swaziland quotas account for only 15,000 and the balance I suppose is to be attributed to smuggling but, if so, the Union Government can hardly take credit for it. Similarly it is hardly honest to take credit for its free admission in view of the acute shortage of labour, which makes our labour indispensible to the maintenance of the Union's prosperity. " Free intercourse " does not of course imply exemption from pass law.

PART IV (Received 11.6 a.m.).

Personally I think that the Union would have been wiser not to overstate their case in this way but subject to the important exception that the Union could not possibly exclude our labour and that we have a bargaining factor in the fact that the Territories market is of some value to the Union of South Africa manufacturers the position is

* Y. 6/144: not printed. † Y. 6/149: not printed. ‡ No. 41. § Y. 6/140: not printed.
‖ Y. 6/141: not printed.

S.A.H.C. Territory—(C.28926/194). 24.

broadly as outlined in the concluding paragraphs of this section. I have hinted at some of these points to Broeksma but felt that as he had gone a good way to meet me in the elimination of former statement I could not press them very hard.

(2) Advantages from transfer. Though the general proposition that the economic future of the Territories if transferred will be more secure is undeniable, here again there is an implied over-statement. A critic who had studied the report of Native Economic Commission could object that the Union's own native reserves have not benefited so enormously by their incorporation " An advanced and progressive State."

PART V (Received 3.15 p.m.).

The Union Government you will also observe are now very careful not to commit themselves in any way in the later paragraph. The statement ignores the very important work which we have undertaken with the assistance of the Colonial Development Advisory Committee in relation to Soil Erosion, improvement of roads and bridges, water development, bull camps, etc., and only holds out vague promises in the place of actual works and financial contribution.

The last two paragraphs, you will see are now more vague than in the earlier statement.

I had asked Broeskma what was meant and it would appear that on reflection Native Affairs Department found themselves uncertain. The allusion to Natives from the Territories permanently resident in the Union I understand refers mainly to Bakhatlas from the Bechuanaland Protectorate and to certain Swazi areas, and that the converse relates mainly to Barolong. So far as I know, no serious inconvenience has been caused.

PART VI (Received 3.24 p.m.).

As regards document C generally, I think that the Union Government have rather bungled their case. They should have concentrated on essential factors that the Territories depend—and so far as can be seen will always depend on Union markets which only transfer can permanently assure to them. They should have considered what we are doing to develop the Territories and whether they could outbid us. And it would have been wiser not to invite rejoinders from outside critics by making the over-statements to which I have already referred.

Document D. If the need were brought to their notice the Union Government might be disposed to make some offer for improvement in European education. This is especially needed in Swaziland.

I think that the use of the word " incorporation " is probably accidental. I can easily call Broeksma's attention to the desirability of substituting " transfer." I might if you agree call General Smuts attention to some of the considerations set forth in this telegram now that I have established contact with him on the Territories question.

Y. 6/152. No. 43. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 5 p.m., 12th February, 1938).

(Paraphrase.)

Secret and Personal. Message from Sir E. Harding:—

Begins.—Your telegram No. 34 of 8th February*. The Secretary of State has not so far had an opportunity of studying your telegram and the Union Memoranda but I feel sure that he would agree to your speaking to Smuts as proposed in last paragraph of your telegram. It is assumed that you would in the main confine your comments to introductory portion of Document C, and to points of wording arising on the document as a whole (e.g. the reference to " stagnation " in Swaziland appears to be open to objection). It would not seem necessary to comment to Smuts upon the contents of the Memoranda as regards Europeans. In speaking to Smuts you should make it clear that the comments are those which occur to you personally and not imply that they come from us. We assume that you will also take up the point as to use of word " incorporation " with Broeksma.

The Secretary of State hopes to bring the joint statement before Cabinet at next Wednesday's meeting and a further telegram will then be sent to you. It would be useful if you could let us know before next Wednesday's Cabinet

(1) on what date the Union Cabinet are likely to consider the joint statement and Memoranda and

(2) whether there have been any developments since your telegram No. 33† was sent as regards formula in substitution for sections 20 and 25. We are assuming that Hertzog will still submit our formula to Union Cabinet see your telegram No. 19 of 1st February‡.—*Ends.*

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* ~~Y. 6/152: not printed.~~ No. 42.

† No. ~~Y. 6/151.~~ 41.

‡ Y. 6/144: not printed.

S.A.H.C. Territory—(C.28926/206). 24.

Y. 6/158. No. 44. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 10.21 a.m., 17th February, 1938.)

(Paraphrase.)

[*Answered by No.* ~~Y. 6/160.~~ 57]

No. 41. Secret. 17th February. Following is text of letter addressed to you by General Hertzog dated the 16th February* :—

Begins.—[See No. ~~Y. 6/170.~~]—*Ends.*

Reference to " last sentence of second paragraph on page 1 " relates to the sentence beginning " At the same time ". My comments will follow.

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* No. ~~Y. 6/170.~~ 52.

S.A.H.C. Territory—(C.28926/192). 24.

Y. 6/159. No. 45. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.38 p.m., 17th February, 1938.)

[*Answered by No.* ~~Y. 6/159.~~ 47.]

(Paraphrase.)

No. 43. Secret. 17th February. Would you please refer to my telegram No. 41 secret* containing text of Hertzog's letter to you of the 16th February†. On his instructions this was communicated to me as one of the papers which are being circulated to the Cabinet.

The first thing which strikes me in this letter is that it shows the importance of the point which you made clear in your letter of 27th January‡ that you do not accept Hertzog's contentions in his letter of 29th December, 1937§. It looks to me as if an attempt to re-establish those contentions is being made in the present letter.

Hertzog is very sensitive about his handling of the transfer issue and the letter was, I fancy, despatched yesterday so that copy of it could be included among the papers for the Cabinet and so that it might help to forestall criticism from his colleagues. He has told us that before the end of the week the matter is to be discussed in the Cabinet and it may possibly be going before them this morning.

Hertzog has a one-track mind as you know and when he has his mind on a particular objective he is blind to the consequences in other directions but even so it seems strange that he has not realized that the whole question on which you and he had agreed to differ is being reopened by him. In fact he is making impossible the issue of an agreed joint statement since he would doubtless regard himself as free, if this letter were ignored, to give this startling gloss publicity in a speech. And he might have realized, one would have thought, how impossible it would be for His Majesty's Government in the United Kingdom to accept such an important modification in a document which has been laid before our Parliament and has been cited frequently as embodying the policy of you and your predecessor. I have often enough impressed that upon him.

Language used in his letter where he claims that "acquiescence" should be interpreted as meaning no more than "goodwill towards the idea of transfer" but does not suggest that "acquiescence" should be eliminated altogether is also inconsistent with his present proposition of a reversion to 1909 pledge of consideration of natives wishes. You will remember that in paragraph 2 of the *aide-mémoire*‖ of my talk with Hertzog which I handed to him on 20th December you accepted this interpretation and it is also embodied in paragraph 4 of the Union Government's own draft of the proposed joint statement see my telegram No. 13 secret¶.

It seems desirable that answer should be sent to Hertzog as soon as possible. In fact I tried this morning to see him in order to tell him, purely as a matter of personal opinion, that I felt sure that there would be grave difficulty about the acceptance of this new proposition. It seems to me desirable that some warning should be sent to him which would at least prevent him from telling his colleagues that his interpretation had been accepted. He was not able to see me, but I gave his Secretary some intimation of the reasons why I wished to see him and these may have reached his ears.

Copy of Hertzog's letter to you was on his instructions communicated to me formally, so I hardly think that exception could be taken if you reply by telegram to the letter as telegraphed by me. Perhaps it would be best if the answer came in the form of message from you which I could hand to him. It is I think desirable that it should be made very clear that if a joint statement is to be given to the public there must be an understanding that neither party is to issue gloss upon it subsequently.

On matters personally affecting Hertzog it would be dangerous for me to see Smuts but I know from previous talks that latter is very impatient about Hertzog's wrangles over what happened two years ago and is therefore likely to be helpful in the Cabinet.

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* No. ~~Y. 6/156.~~ 44. † No. ~~Y. 6/170.~~ 52. ‡ No. ~~Y. 6/141.~~ 38. § Y. 6/133: not printed.
‖ Y. 6/123: not printed. ¶ Y. 6/138: not printed.

S.A.H.C. Territory—(C.28926/197). 24.

Y. 6/160. No. 46. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.37 p.m., 17th February, 1938.)

[*Answered by No.* ~~Y. 6/159.~~ 47.]

(Paraphrase.)

No. 44. Secret. 17th February. My telegram No. 43 of 17th February*. This afternoon Prime Minister sent Broeksma to see me. Broeksma tells me that the draft joint statement was discussed and approved by Union Cabinet this morning. They had copy of Hertzog's letter to you of yesterday† before them. I expressed my doubt to Broeksma about the possibility of His Majesty's Government in the United Kingdom accepting Hertzog's contentions and he was I think impressed. He promised to speak on the same lines to the Prime Minister.

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* No. ~~Y. 6/159.~~ 45.

† No. ~~Y. 6/176.~~ 52.

S.A.H.C. Territory—(C.28926/195). 24.

Y. 6/159. No. 47. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 8.30 p.m., 18th February, 1938.)

[*Answered by No.* ~~Y. 6/160.~~ 49.]

(Paraphrase.)

No. 17. Secret. Reference your telegrams Nos. 41*, 43† and 44‡. Text of message which I should like you to give to General Hertzog at once unless you have any comments on its terms is contained in my immediately following telegram§. Please consult me again before communicating it to him if you have any comments. Message has been framed with the object of making our own position clear, while minimizing opportunities for further rejoinder. From this point of view you may possibly regard last two sentences of message as likely to lead to further discussion but it seems important on the other hand to prevent General Hertzog from regarding us as committed to an actual modification of the 1935 *aide-mémoire*.

I think that it would be as well, whether or not you proceed to give the message to General Hertzog forthwith, if you would explain to him at once (see my telegram secret and personal of 17th February||) that until the approved text of the Union Memoranda is available to them it is improbable that United Kingdom Government will be able to reach a decision as to joint statement. You could if you think it advisable add a hint (in supplement to what you said to Brochsma—see your telegram No. 44‡) that you anticipate difficulty on this side in proceeding with the issue of the joint statement until we are satisfied that there is no difference between General Hertzog and myself in regard to the interpretation of the 1935 *aide-mémoire*.

Do you know what present position is as regards consideration of Memoranda by Union Cabinet?

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* No. ~~Y. 6/158.~~ 44. † No. ~~Y. 6/160.~~ 45. ‡ No. ~~Y. 6/160.~~ 46. § No. ~~Y. 6/159.~~ 48.

|| Y. 6/158: not printed.

S.A.H.C. Territory—(C.28926/199). 24.

Y. 6/159. No. 48. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 9.30 p.m., 18th February, 1938).

(Cypher.)

No. 18. Secret. Following is text referred to in my immediately preceding telegram*:—

Begins.—Sir William Clark has telegraphed to me the terms of your letter of 16th February†.

My understanding of the position is as follows. There is no question of altering or adding to the pledges which were given during the passage of the South Africa Bill in 1909. These are summarized in paragraph 3 of our proposed Joint Statement.

What you and my predecessor were concerned with at the time of the *aide-mémoire* of 1935 was consideration of the policy to be adopted during the next few years. This was expressed as " directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned ".

In your letter of 29th December‡ you said that you assumed that no more was meant by the word " acquiescence " than " good will towards the idea of transfer to the Union ". As Sir William Clark has explained to you, I am quite prepared to accept that the words " full acquiescence " in the *aide-mémoire* should be interpreted as meaning good will. I should have no objection to your saying publicly that you so interpret the expression, and I should be prepared to do the same.

On this understanding I hope that *aide-mémoire* of 1935 can stand. Serious difficulty would arise here if we were now to seek to omit phrases in that document.—*Ends.*

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* No. ~~Y. 6/158.~~ 47.

† No. ~~Y. 6/170.~~ 52.

‡ Y. 6/133: not printed.

Y. 6/166. No. 49. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 1.3 p.m., 26th February, 1938.)

(Paraphrase.)

No. 50. Secret. 26th February. Your telegram No. 17 secret*. I saw the Prime Minister yesterday and handed your message to him. His first impression was that it should meet his views but he wished to consider it further and will then communicate with me. I impressed the objection to any modifications of the wording of the *aide-mémoire* upon him and I am hopeful that he will be satisfied with your explanation.

I told him then they would find it difficult to arrive at a decision on the joint statement until they had seen the text as finally approved of the Union Memoranda. He had no objection but the question when the Memoranda are likely to be available is becoming very uncertain. Hertzog thought that the Cabinet could hardly find time to get down to them in the next week or two, and it is generally thought that the Session will not last more than another two or three weeks at the outside. Ministers will then scatter for the election campaign and it begins to look as if the joint statement may not get issued before the general election.

Our main concern in that connexion is the risk that if heckled during the election campaign about his failure to make progress with transfer, Hertzog may let himself go and make some undesirable pronouncement. I had an opportunity later of consulting Smuts as to this and his view was that we could pretty safely let things slide and that he rather thought Hertzog himself was beginning to incline that way. He doubted whether in view of the farmers dislike of or at least lukewarmness towards transfer the opposition would regard Territories as an advantageous stick with which to beat the Government. We should get further indications of the Malinite attitude either negatively or positively next week when the second reading of Part Appropriation Bill will enable Malan to launch an attack on Government policies generally.

As you know I thought as also did Smuts some weeks ago that we ought to try to get a joint statement issued before beginning of the Session in case of trouble in Parliament. Subject to what may happen next week this now looks less likely and the Territories seem less likely to be prominent in the election campaign. Hitherto I have taken the line that in any inquiries I have made from Hertzog as to the progress with Union Government Memoranda, etc., I am only asking for information and that question of speed up or delay is for them. It hardly seems necessary in the circumstances to depart from that attitude unless you think that from the point of view of opinion in England so long a delay in issuing a statement on recent negotiations might be inconvenient.

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* No. ~~Y. 6/139~~. 47.

S.A.H.C. Territory—(C.28926/198). 24.

Y. 6/168. No. 50. PROOF.

SIR WILLIAM CLARK (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND)

to

SIR HARRY BATTERBEE (DOMINIONS OFFICE).

(Received 28th February, 1938.)

MY DEAR HARRY, Cape Town, 18th February, 1938.

In the Secretary of State's Secret and Personal telegram of yesterday*, it was suggested that I should do what I can to get the Union Memoranda about transfer into as innocuous a form as possible. I have already taken action in the matter and have sent Smuts the letter of which I enclose a copy. Smuts has handed it to Broeksma who tells me that he is consulting the Ministry of Agriculture, which is the department principally concerned. I think probably some modifications will be made but, of course, my position in pressing for them at all urgently would become equivocal as we do not wish to take any responsibility for their ultimate wording. However, I think I have impressed Broeksma with the desirability of avoiding statements which would lead to subsequent controversy.

I was rather glad of the opportunity of letting Smuts and the rest of them know what large sums we are actually spending upon the Territories. They quite sincerely believe that we are starving our Territories while they spend lavishly upon their natives. Actually, apart from the purchase of land under the new legislation, they do not even spend on natives the full amount which they obtain from them by taxation, as two-fifths of the native tax goes into Union general revenues†. Similarly, the Transvaal administration impose a tax upon native passes of which, I suppose, the ultimate incidence falls upon native wages, and uses the proceeds cheerfully to finance European education.

I thought I had got pretty used to the vagaries of Hertzog's mentality, but I must confess that his letter of the 16th February to the Secretary of State‡ took me entirely by surprise. I am glad to see that the Secretary of State thinks the matter should be fairly easily settled: I hope he is right, but the old gentleman can be infernally obstinate when he gets an idea or grievance firmly into his head. The trouble is that whatever one settles with him the said idea or grievance is always apt to bob up again.

Yours, &c.,
WILLY CLARK.

Enclosure in No. 50

Private and Confidential.

MY DEAR SMUTS, Cape Town, 15th February, 1938.

Since our last talk about your Government's Memoranda of terms on which transfer of the Territories might take place, I have had a further look at the Memoranda, apart from the question of constitutional safeguards which we have already discussed, and have formed certain impressions which you may care to consider. You will appreciate that these are purely personal impressions of my own and, of course, I fully realize that the contents and wording of the Memoranda are matters which solely concern the Union Government; but I send them on in case they may be of use as indicating possible criticisms to which the Memoranda might be exposed. I have especially in mind Document (*C*) setting forth the advantages, economic and other, which might be expected to result to the inhabitants of the Territories from transfer.

The general impression I get is of a certain over-statement of your case, and that is the sort of thing that invites rejoinders. For example, in the introductory section, while it is true that Union manufactured goods imported into the Territories are not produced in the Territories, it is also true that owing to the Union's protectionist policy our natives have to pay high prices for them, and it is arguable that it is the Union which benefits at our peoples' expense. Similarly in the next paragraph " the only one important exception "—i.e., cattle—is so important that it largely nullifies the contention that the Union have in general succeeded in maintaining a policy of free intercourse. It can be said on the other side that the only other competitive export from the Territories to the Union of any magnitude is butter which, being subject to levy, assists to subsidize the export of the Union's surplus. Tobacco again is subject to a levy for a similar end.

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* Y. 6/158: not printed.

† As against this the Union Government make a grant of £340,000, but this is less than two-fifths of the yield of the native tax.

‡ No. ~~Y. 6/170~~ 52.

~~S.A.H.C. Territory—(C 28926/202). 24.~~

and I am puzzled by the suggestion that imports from Swaziland are in some way responsible for the policy of compulsory export, since your only substantial imports come from Southern Rhodesia.

As regards the statement that 30,000 cattle from the Territories find a market in the Union, the Bechuanaland Protectorate and Swaziland quotas provide for 15,000 only. The balance may be accounted for by such illegal traffic as goes on, but so far as the Union Government is concerned, surely the only relevant figure is that of the quotas, which *ex hypothesi* represent the maximum that the Union Government consider the Territories should be allowed to export to their market.

As regards the section dealing with the specific advantages which may be expected to result from transfer, you will observe that those benefits which would involve expenditure are put very much in the potential mood. Probably the extent of the expenditure to which my Government are actually committed for the improvement of conditions and general development in the Territories has not been realized. For example, grants are being made from the Colonial Development Fund totalling £170,000 for combating soil erosion in Basutoland; £273,000 for improvement of water supplies, roads and bridges in the Bechuanaland Protectorate; and £113,000 for various developmental projects in Swaziland. In addition to these sums, the Bechuanaland Protectorate has had £402,000 and Swaziland £326,000 as grants-in-aid during the last ten years, and expenditure on social services, agriculture, etc., has been increased. As against these figures, somewhat vague promises will hardly be every effective.

I hope you won't mind my troubling you with all this, but please believe that I really do wish to be helpful.

Yours, &c.,

W. H. CLARK.

General
The Right Honourable
J. C. Smuts, C.H., K.C., M.P.

Y. 6/171. No. 51. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.24 p.m., 1st March, 1938).

(Paraphrase.)

No. 52. Secret. 1st March. My telegram No. 50 secret of the 26th February*. Outlook has again altered and it is evident that the Union Government have now decided to press on with joint statement. The question was discussed yesterday morning in the Cabinet and the Prime Minister sent Broeksma to see me in the afternoon. He told me that:—

(1) The Union Government accept exposition of the situation as expressed in your message to Hertzog referred to in your telegram No. 17, secret, of the 18th February†.

(2) As regards the Union Memoranda, (*a*) Union Government have accepted Smuts formula for safeguards in document A. (*b*) Broeksma went into the document C with me and agreed to number of omissions and amendments with the result that it is much less open to criticism. (*c*) The Union Government have decided to drop the idea of amending section 12 of schedule.

Broeksma will send me copies of the amended Memoranda as soon as possible.

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* No. ~~Y. 6/168~~ 49.

† No. ~~Y. 6/159~~ 47.

S.A.H.C. Territory—(C.28926/207). 24

Y. 6/170. No. 52. PROOF.

GENERAL J. B. M. HERTZOG (PRIME MINISTER OF THE UNION OF SOUTH AFRICA)

to

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS).

(Received 1st March, 1938.)

DEAR SECRETARY OF STATE, Cape Town, 16th February, 1938.

I am in receipt of your letter of the 27th January, 1938*, and agree that we should now see in what practical ways we could make further progress.

To revert, however, very briefly to the discussions in 1935 between Mr. Thomas and myself, I find it necessary to state that His Majesty's Government in the Union of South Africa construe the last sentence of the second paragraph on page one of the Draft Joint Statement as superseding the phrase " full acquiescence of the populations concerned " appearing in paragraph 4 of the *aide-mémoire* of 1935†.

In other words, His Majesty's Government in the Union construe the said *aide-mémoire* as containing no reference to the phrase " full acquiescence of the populations concerned " and as not going further than the pledges which were given during the passage of the South Africa Act through the United Kingdom Parliament, the one relevant in the present context being that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered.

Yours &c.,

J. B. M. HERTZOG.

38.

* No. ~~Y. 6/141~~ 49.

† Cmd. No. 4948.

S.A.H.C. Territory—(C.28926/193). 24.

Y. 6/175. No. 53. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4.37 p.m., 2nd March, 1938.)

(Paraphrase.)

No. 55. Secret. 2nd March. My telegram No. 50 secret of the 26th February*, the text of personal letter from the Prime Minister dated the 1st March in reply to your message to him is as follows:—

Begins.—My dear Secretary of State,

Sir W. Clark has handed me your message† relating to my letter of the 16th February, 1938‡, and I note with much pleasure that there is no question of adding to or altering the pledges given during the passage of the South Africa Bill 1909. With regard to the actual terms of the *aide-mémoire* 1935§, in order to avoid anything which might have the semblance that I have at any time agreed to a modification of the 1909 pledges, I propose in future to stress measures of effective co-operation upon which His Majesty's Government in the United Kingdom and of the Union of South Africa have agreed rather than to deal with the significant phrase " full acquiescence of the population concerned " and possibly you may decide on a similar course of action.

As I appreciate your difficulties with regard to this matter and have made my own position clear, I agree that no useful purpose could be served by insisting at this stage on an actual alteration in the terms of the *aide-mémoire* 1935.—*Ends.*

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* No. ~~Y. 6/168.~~ 49.

† *See* ~~Y. 6/159.~~ No. 47.

‡ No. ~~Y. 6/170.~~ 52.

§ Cmd. No. 4948.

S.A.H.C. Territory—(C.28926/196). 24.

Y. 6/174. No. 54. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4.34 p.m., 2nd March, 1938.)

[*Answered by No.* ~~Y. 6/174.~~ 56.]

(Paraphrase.)

No. 56. Secret. 2nd March. I have now received General Hertzog's reply to your message and of the amendments of the Union Memoranda the texts of which are contained in my telegrams No. 54* and No. 55†. It would doubtless be convenient to the Union Government if they could have the views of the United Kingdom Government by the 15th March when the Session here, which looks like petering out, is expected to end.

Hertzog's letter is curiously worded though generally speaking it seems satisfactory. As I read it, it seems to be intended as a hint that as little as possible should be said in future about acquiescence.

I am sending confidentially to the Resident Commissioners copies of the joint statement and the revised Union Government Memoranda and am suggesting to them that, in order to save time if early publication should be agreed upon, they should have translations prepared of the joint statement. My idea is that if and when date is fixed, copies should be given privately a day or two in advance to the Paramount Chiefs and Chiefs in Bechuanaland so that they may thoroughly understand the contents and be able if necessary to allay their people's anxiety.

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* Y. 6/172: not printed.

† No. ~~Y. 6/175.~~ 53.

S.A.H.C. Territory—(C.28926/201). 24.

Y. 6/180. No. 55. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 12.25 p.m., 8th March, 1938.)

(Paraphrase.)

~~Dated~~ 8th March, ~~1938.~~

No. 64. My telegram No. 62 secret of the 7th March*. Broeksma telephoned me this morning to say that the Prime Minister has decided to postpone until after the elections the publication of the Union Memoranda. He enquired also, in view of Session coming to an end next week, when our Cabinet are likely to communicate their views on the draft joint statement. Is there any information I can give him on this point?

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* Y. 6/179 : not printed.

S.A.H.C. Territory—(C.28926/208). 24.

Y. 6/174. No. 56. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 12.30 p.m., 9th March, 1938.)

(Paraphrase.)

No. 25. Secret. Your telegram No. 56 of 2nd March*. I propose to communicate to Cabinet, for their information, revised Union Memoranda and to bring the question of issue of a joint statement before them again. I am afraid that it will not be practicable in view of present pressure here to obtain a decision before the meeting of the Cabinet on 16th March. I should be grateful if you could explain the position to General Hertzog and at the same time (if you agree) thank him orally on my behalf for his letter of 1st March†. Subject to your views it would seem undesirable to continue the correspondence further.

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* No. ~~Y. 6/174.~~ 54.

† *See* No. ~~Y. 6/176.~~ 53.

S.A.H.C. Territory—(C.28926/200). 24.

Y. 6/183. No. 57. PROOF.

GENERAL J. B. M. HERTZOG (PRIME MINISTER OF THE UNION OF SOUTH AFRICA)

to

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS).

(Received 14th March, 1938.)

MY DEAR SECRETARY OF STATE, Capetown, 1st March, 1938.

Sir William Clark has handed me your message relating to my letter of the 16th February, 1938*, and I have much pleasure in noting that there is no question of altering or adding to the pledges which were given during the passage of the South Africa Bill of 1909.

With regard to the actual terms of the *aide-mémoire* of 1935†, in order to avoid anything which might have the semblance that I have at any time agreed to a modification of the 1909 pledges, I propose in future rather to stress the measure of effective co-operation upon which His Majesty's Governments of the United Kingdom and of the Union have agreed than to deal with the significance of the phrase " full acquiescence of the populations concerned " and possibly you may decide upon a similar course of action.

As I appreciate your difficulties with regard to this matter and have made my own position clear, I agree that no useful purpose could be served at this stage by insisting on an actual alteration in the terms of the *aide-mémoire* of 1935.

Yours, &c.,

J. B. M. HERTZOG.

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* No. ~~Y. 6/170~~. 52.

† Cmd. 4948.

S.A.H.C. Territory—(C.29436/211). 24.

Working Copy.

P.Q./Y. 6/29. No. 55. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 29TH MARCH, 1938.

South Africa (High Commission Territories).

5. MR. AMMON asked the Secretary of State for Dominion Affairs whether he is yet in a position to make any statement as regards the discussions with the Prime Minister of the Union of South Africa relating to the High Commission Territories in South Africa?

6. MR. CREECH JONES asked the Secretary of State for Dominion Affairs whether he can now make a statement on the subject of recent discussions with the Government of the Union of South Africa on the High Commission Territories?

THE SECRETARY OF STATE FOR DOMINION AFFAIRS (MR. MALCOLM MACDONALD): Yes, Sir. As a result of these discussions the Prime Minister of the Union of South Africa and I have agreed upon a joint statement, which I propose to make, with the Speaker's permission, at the end of Questions.

At the end of Questions:

MR. MACDONALD: General Hertzog and I took the opportunity of his visit to England in May and June last to discuss the situation in regard to the transfer to the Union of the Government of the High Commission Territories and have since continued our communications on the subject. As regards the principles involved, His Majesty's Government in the United Kingdom entirely accept the view expressed by General Hertzog in a speech in London in May, 1935, that section 151 of the South Africa Act (which deals with the transfer of the Government of the High Commission Territories to the Union) has a meaning and intention. His Majesty's Government in the United Kingdom fully recognize the significance of the section and do not seek to minimize it. At the same time the position of the United Kingdom Government is also governed by the pledges which were given during the passage of the South Africa Bill through the United Kingdom Parliament in 1909, namely, that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered, and that before such transfer the United Kingdom Parliament should be given the fullest opportunity of expressing its views.

Bearing these fundamental conditions in mind, General Hertzog and I have been jointly studying what is the best and most practical course to pursue. We have especially had under consideration the progress made with the policy of co-operation adopted three years ago, the aim of which as set out in the *Aide-Mémoire* of 1935* was to demonstrate to the peoples of the Territories that " the Union Government are working in concert with the local administrations with a real and generous desire to develop and improve conditions in the Territories." It seems to us that, putting aside for the moment large financial schemes, there is room for a closer co-operation on lines which have not yet been fully explored. We have therefore agreed to constitute a standing joint Advisory Conference consisting of the Secretary for Native Affairs and two other officers of the Union Government together with the Resident Commissioners of the three High Commission Territories, whose function it will be to study openings for co-operation between the Union Government and the administrations in matters affecting the development of the Territories and to consider any matters of joint concern to the Union and the Territories such as prevention and control of animal diseases, marketing of produce, prevention of bubonic plague, etc. The establishment of this Advisory Conference would not, of course, affect the present responsibility of His Majesty's Government in the United Kingdom for the government of the Territories.

It has also seemed to us desirable that the peoples of the Territories should have before them a clear picture of the terms on which the transfer of the Government would take place, if decided upon. Such terms would naturally follow closely the provisions of the Schedule to the South Africa Act of 1909, but it seems to us important that His Majesty's Government in the Union should set them out in a more convenient and more complete form, so that the peoples of the Territories may appreciate the conditions under which the Territories would be governed, the position in regard to the maintenance of the tribal institutions of the natives, the economic advantages which the Union Government anticipate would accrue to the peoples of the Territories and any other relevant matters. It has accordingly been arranged that Memoranda should be prepared by the Union Government setting forth the terms which they would propose and that these Memoranda should be made available for the information of the native and European inhabitants of the Territories. We feel that this step will be very helpful in clarifying the whole question.

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* Cmd. 4948.

S.A.H.C. Territory—(C.29436/210). 24.

MR. AMMON: Can the right hon. Gentleman give any idea when he proposes to appoint the Advisory Committee; and will he receive their report before any further action is taken and see that it is brought before the House?

MR. MACDONALD: The Advisory Conference is simply concerned with the details of technical questions outlined in my statement. That Conference will be appointed at the earliest possible date, and naturally before taking decisions on matters which come within the purview of that Conference, I should like to consider any report or any comment that they wish to make on the matter.

MR. LUNN: Will it be possible for Members of the House to have copies of the Memoranda which are to be made for the guidance of the Advisory Conference?

MR. MACDONALD: The Memoranda are not for the guidance of the Advisory Conference but for the information of the inhabitants, native and European, within the Territories. They are being prepared by the Union Government, and I do not anticipate that they will be published at a very early date, but certainly, as soon as they are available, I will propose that they should be published in a form which made them easily available to Members of the House.

MR. RILEY: Will there be representatives of the native populations on the Advisory Conference?

MR. MACDONALD: My statement says that the Advisory Conference will consist of three officials from the Union Government and the three Resident Commissioners of the Territories. Naturally the three Resident Commissioners, who are responsible for government in the Territories and for looking after the interests of the natives, will be well aware of those interests and what they may require.

MR. RILEY: That was not the point I was putting. It was whether on the Advisory Conference there will be an actual representative of the natives?

MR. MACDONALD: There will be no representation of the natives as such, but that does not mean that the natives' interests will go unrepresented.

SIR PERCY HARRIS: Will the right hon. Gentleman consider publishing a White Paper giving all the relevant points of the history of this matter?

MR. MACDONALD: I will certainly consider that, but it might be more convenient if it were postponed until the Memoranda are ready.

MR. H. G. WILLIAMS: May I ask whether the decision to advise natives what will happen when the Territories have been transferred implies a decision that the responsibility for the Territories should be transferred ~~of~~ the Government of the Union, and, if not, why are these Memoranda being published?

MR. MACDONALD: The statement says that we recognize the significance of section 151 of the South Africa Act in which the question of transfer is referred to. There is no further commitment in anything which has happened since beyond the commitment in that section.

MR. WILLIAMS: May I press my right hon. Friend? Why tell the natives what is going to happen unless a decision has already been made that it should happen?

MR. MACDONALD: I think I can describe the situation in this way. There is a good deal of uncertainty as to what would happen to the Territories in a case of transfer. There is even uncertainty as to whether the Union Government would propose to abide by all the provisions of the Schedule to the Act. I think that the Memoranda which are being prepared will serve an extremely useful purpose in removing any uncertainty on that question.

MR. WEDGWOOD BENN: Do the Government contemplate sooner or later the extension to these native Protectorates of the present native policy of the Union Government?

MR. MACDONALD: I think that all those considerations must wait until we see what is contained in these Memoranda which are being prepared.

MR. ELLIS SMITH: During the consultations which the right hon. Gentleman had, was consideration given to the large amount of anti-British propaganda which is being carried out, and, if not, will consideration be given to the need for counteracting it?

MR. MACDONALD: I am not aware to what anti-British propaganda the hon. Member refers. These communications were concerned solely with the situation in the High Commission Territories. I am not aware that anti-British propaganda is going on.

MR. PALING: Can we know why there is no African on this Advisory Conference?

MR. MACDONALD: If the hon. Member will study the reply he will see that the Advisory Conference is concerned with a good many subjects which can best be considered by experts. I think the composition of the Conference is such as will best facilitate an examination of the problems which it will have before it.

MR. ATTLEE: Is not a native an expert on the way in which natives live?

MR. MACDONALD: There are all sorts of experts, but they will not all sit on this Conference. We have tried to constitute a body which is sufficiently small but sufficiently expert to do the work of the Conference expeditiously and thoroughly.

MR. PALING: Is not the decision to be taken by this Conference one which will affect vitally the lives and the welfare of all the natives in those Protectorates, and may it not ultimately mean that they will be taken under the control of the South African Government, with all that that will mean in view of that Government's native policy? Seeing that it is so vital to the natives, why cannot they have direct representation there?

MR. MACDONALD: I fully appreciate what hon. Members have in mind, but I do think that the Resident Commissioners and the other members of the Conference are adequately equipped to look after the interests of the natives. If we were to accept the principle that one interest should receive representation as such, we should be bound to accept the contention that other interests should also have representation.

Working Copy. 186.

Y. 6/202. No. 59. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.16 p.m., 5th April, 1938.)

(Paraphrase.)

No. 90. 5th April. My telegram No. 88 of the 5th April*. Little information regarding the reception of the Joint Statement in the Territories has yet been received. In acknowledging copy Paramount Chief of Basutoland stated that he still had hopes in the promise made by His Majesty's Government to them that the transfer would not be made until their wishes had been made known and given very careful consideration. He also gathered from the Statement that the establishment of the Advisory Council will not touch the present responsibility of His Majesty's Government in England regarding the Government of the Territories. Paramount Chief of Swaziland expressed apprehension to the Resident Commissioner regarding the words "recognize the significance of this and do not seek to minimize it" as regards section 151 of the South Africa Act. He considered that this emphasised the case too much. He enquired who would be Chairman of the Advisory Conference. Resident Commissioner was of the opinion that appointment of the Union Secretary for Native Affairs as Chairman would worry the natives. Sobhuza also raised the question of native representation on the Conference which I consider not feasible. Resident Commissioner promised to keep in closest touch with the Paramount Chief regarding the Conference and that he and the Council would always be consulted. So far I have received no report regarding the reception of the Statement in the Bechuanaland Protectorate, but Tshekedi is reported in an interview with Reuter's agent at Serowe to have stated that he is still opposed to the incorporation of the Bechuanaland Protectorate in the Union but apart from this had no observations to make on the Joint Statement.

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* Y. 6/200: not printed.

S.A.H.C. Territory—(C.29436/214). 24.

Working Copy.

Y. 6/204. No. 60. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.14 p.m., 6th April, 1938.)

(Paraphrase.)

No. 92. 6th April. My telegram No. 90 of 5th April*. Joint Statement. Resident Commissioner, Bechuanaland Protectorate reports that so far information received from district indicate that the attitude of the natives generally is hostile to any suggestion of incorporation. District Commissioner Kanye reports that immediate reaction after reading the statement in full Kgotla was " one of profound shock ". He will report further in ten days time. Acting District Commissioner Mochudi reports that in spite of the explanation that no decision on the question of transfer was being asked of them speeches were made declaring that the people did not wish to come under the Union rule. Attitude of the Chief and his leading councillors seemed to be " co-operation by all means but no transfer ", and " wait and see what the Union Government is going to undertake ". They did not appear to anticipate that any offer sufficiently attractive to induce them to agree to change of Government would be made. District Commissioner Serowe reports that the Acting Chief carefully explained Statement to his people and in reply to a question said that they would have an opportunity of discussing the Union Government's Memoranda. Hostility to transfer was expressed by several speakers one of whom said that if General Hertzog could go to England to discuss the matter with the Secretary of State why could not they go for the same purpose?

Another speaker objected to the Advisory Conference and expressed the fear that the Resident Commissioners might agree to something natives would not agree to. District Commissioner states that while people unanimously in opposition to the idea of the Protectorate being governed by the Union, they are keenly interested in General Hertzog's proposals and wish to discuss them. The Acting District Commissioner Molepolole states that the reactions of the Chief and tribe can best be expressed by the words " wait and see the picture which is promised us; it will be time enough then to express our views on the subject."

Swaziland European Advisory Council met to discuss the statement on Tuesday the 5th and according to Press reports passed a resolution which is being telegraphed separately.

Resident Commissioner reports reaction of Swaziland Native Council as follows:—

(*a*) gratified to know that the Imperial Government adheres to previous assurances and pledges;

(*b*) assume that no advice tendered by the Joint Conference affecting vital interests of natives will be law without full consultation with natives;

(*c*) consider that native representatives on the Joint Conference is most essential.

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* No. ~~Y. 6/202.~~ 59.

S.A.H.C. Territory—(C.29436/215). 24.

Working Copy.

Y. 6/203. No. 61. PROOF.

77

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received at 4.20 p.m., 6th April, 1938.)

No. 93. 6th April. Following is text as published in the Press of the resolution passed by the European Advisory Council Swaziland at meeting held yesterday:—

Begins.—

(*1*) Provisions of schedule to Acts of the Union to present day conditions are not suitable conditions under which the Territory should be incorporated;

(*2*) the whole position should be re-examined before any final arrangements are made for incorporation of the Territory;

(*3*) any Memoranda being prepared by the Union Government as disclosed by the Joint Statement should be submitted in draft form to the Council so that the Union Government may learn the views of members before the final Memoranda are published.—*Ends.*

S.A.H.C. Territory—(C.29436/213). 24.

P.Q./Y 6/33. No. 62. Working Copy. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 28TH APRIL, 1938.

South Africa (High Commission Territories).

66. MR. DAVID GRENFELL asked the Secretary of State for Dominion Affairs whether he has any further statement to make regarding the composition of the Standing Joint Advisory Conference between the Union of South Africa and the High Commission territories?

THE UNDER-SECRETARY OF STATE FOR DOMINION AFFAIRS (MARQUESS OF HARTINGTON): Yes, Sir. As my right hon. Friend stated in reply to questions on 29th March*, the representatives of the High Commission Territories will be the three Resident Commissioners. The representatives of the Union Government will be Mr. D. L. Smit, Secretary for Native Affairs, Dr. P. R. Viljoen, Secretary for Agriculture, and Dr. J. E. Holloway, Secretary for Finance. The chairman of the Conference will be the Senior Resident Commissioner. It is proposed to hold a preliminary meeting of the Conference at Pretoria on 6th May.

MR. GRENFELL: Is there not to be any representation of the people most vitally concerned, that is, the native population?

MARQUESS OF HARTINGTON: They are represented by the Resident Commissioners.

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* No. ~~P.Q./Y 6/29~~ 58.

S.A.H.C. Terr.—(C.29901/217). 24.

Y. 6/211. No. 63. PROOF.

SIR WALTER HUGGARD (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND)

to

MR. E. G. MACHTIG (DOMINIONS OFFICE).

(Received 20th April, 1938.)

(Secret and Personal.)

(No. 1064.)

DEAR MACHTIG, Cape Town, 12th April, 1938.

Would you please refer to Clark's telegram No. 93 of the 6th April* regarding resolutions passed by the European Advisory Council, Swaziland, on the 5th April?

We had received from Bruton the enclosed copies of two questions which were put by Pierce at that meeting to which Bruton replied " Mr. Pierce will appreciate that these questions will have to be referred to the Higher authorities." Actually we did not receive Bruton's letter in time to take action regarding the questions before the date of the Council meeting, but as the points will no doubt crop up again in Swaziland and possibly in the other Territories and in the United Kingdom I should be glad to have your views on the nature of the replies which might be made.

If there had been time Clark had proposed to submit for the Secretary of State's approval the following replies with the suggestion that if the Secretary of State approved them the Union Government would be consulted in order to ascertain whether the terms were acceptable to them:—

(*a*) I understand that the Governments concerned will be willing to consider any representations which may be made to them.

(*b*) The question now under discussion is not one of the incorporation of any of the High Commission Territories in the Union but of the transfer of their government from His Majesty's Government in the United Kingdom to His Majesty's Government in the Union. Subject to this, the answer is in the affirmative.

It seems desirable to ascertain from the Union Government whether the terms would be open to modification as the result of representations from the inhabitants of the Territories after consideration of the Memoranda.

Yours, &c.,

WALTER C. HUGGARD.

Enclosure in No. 63.

COPY OF TWO QUESTIONS TO BE ASKED AT NEXT COUNCIL MEETING.

5. In the Joint Statement by General Hertzog and Secretary of State for Dominion Affairs issued on 29th March, 1938, is that portion reading " so that the peoples of the Territories may appreciate the conditions under which the Territory would be governed " intended to mean that the Governments concerned would be unwilling to consider any recommendations by the inhabitants of Swaziland for alterations or additions to the proposed terms that the statement intimates are to be set out in the Memoranda, which as it has been arranged, should be made available to the inhabitants by the Union Government, should alterations or additions appear to the inhabitants after a careful examination to be necessary or desirable?

8. In the event of the incorporation of Swaziland with the Union of South Africa, is it the desire and will it be the endeavour of His Majesty's Government in the United Kingdom to ensure that the inhabitants of the Territory should be on at least an equal footing with their compeers in the Union?

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* No. ~~Y. 6/203.~~ 61.

S.A.H.C. Territory—(C.31202/225). 24.

Working Copy

Y. 6/220. No. 64. PROOF.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 27th April, 1938.)

Swaziland. [Annexed by No. 66]

(No. 232.) (Confidential.)

SIR, Cape Town, 19th April, 1938.

I have the honour to transmit to you the accompanying copy of a despatch from the Resident Commissioner, Swaziland, enclosing copies of two resolutions passed by the European Advisory Council on the 5th April regarding the Joint Statement recently issued by you and the Prime Minister of the Union.

2. These resolutions reflect the views of the local Europeans but it seems improbable that the procedure which they advocate, involving the abandonment of the terms of the Schedule to the South Africa Act, would be supported by the native inhabitants of Swaziland. It seems desirable, however, that the Union Government should be kept informed of any representations which may be received both before and after the issue of the Memoranda by that Government.

3. In the circumstances, I propose that, if you see no objection, copies of these resolutions should be furnished to the Union Government with the suggestion that the Memoranda, when issued, should be accompanied by a statement by the Union Government that the statement of terms would be open to modification as the result of representations from the inhabitants of the Territories after consideration of the Memoranda.

I have, &c.,

WALTER C. HUGGARD,

High Commissioner.

Enclosure in No. 64.

SWAZILAND.

(No. 210.)

Resident Commissioner's Office, Mbabane, Swaziland,

SIR, 12th April, 1938.

I have the honour to transmit copies of two resolutions regarding the terms of the transfer of this Administration which were passed at the meeting of the Advisory Council on the 5th instant.

2. Copies of the minutes recording the discussion will be sent in about a fortnight.

3. I enclose an extra copy of this despatch and enclosures in case Your Excellency may desire to forward them to Sir William Clark for his personal information in view of his desire to be informed as to the general reactions to the Joint Statement.

I have, &c.,

C. L. BRUTON,

Resident Commissioner.

His Excellency
Sir Walter C. Huggard, K.C.,
High Commissioner.

RESOLUTION.

In view of:

A. The intimation in the Joint Statement by the Secretary of State for Dominion Affairs and General Hertzog, that in the event of the transfer of Swaziland to the Union Government, the terms of transfer should follow closely the provisions of the Schedule to the South Africa Act of 1909.

B. The grave alarm that would be aroused at any prospect of the application of the terms of that Schedule to Swaziland, and

C. The intimation that Memoranda are to be prepared by the Union Government setting out the terms which they would propose to submit to the inhabitants of the territory. The Swaziland European Advisory Council earnestly and respectfully submits their unanimous view in regard to the Schedule, for the information of the Governments of the Union and the United Kingdom, as follows:—

That

(1) In the special circumstances of Swaziland, in the event of the transfer of the territory to the Union, and irrespective of the constitutional position created by the Statute of Westminster, the application to Swaziland of the Schedule to the South Africa Act of 1909 as permissively enabled by Section 151 of that Act, and in particular of Sections 1, 2, 11, 12, 13, 19 and 21 would prove highly detrimental to the present and future inhabitants of Swaziland, and would be opposed to the common interests of South Africa.

(2) That it would be reasonable for the inhabitants of Swaziland, on transfer to the Union, to expect to be placed on at least an equal footing with their respective Union compeers, and further, that neither General Hertzog nor the Secretary of State for Dominion Affairs, would desire that it should be otherwise.

(3) That the effect in practice, of the application to Swaziland of the above-mentioned Sections of the Schedule, would prove not only detrimental to the inhabitants of Swaziland, but difficult and embarrassing to the Union Government themselves for, *inter alia*, the following reasons:—

(*a*) Government of European areas by Proclamation as laid down by Sections 1 and 2 of the Schedule; legislation without previous discussion in Parliament, and laws subject to repeal only by resolutions of both Houses of Parliament, are contrary to the practice and principles of democracy in the British Commonwealth and would retard progress and would be resented by Europeans. It is noted that no provision is made for the enjoyment by Swaziland natives of any share in elected representations either in the South African Senate or on the Native Representative Council as is now enjoyed by Union natives.

(*b*) On the basis of sub-paragraph 2 of paragraph 1.C. above and the financial sections 11, 12, 13, 19 and 21 of the Schedule and with Sections 11 and 13 providing for continued financial entity requiring the framing of Swaziland Estimates separately from the Union Estimates proper, without any additional sources of revenue but with additional charges through Section 19, Swaziland Estimates would reveal less revenue through the lower native tax, and more expenditure, especially in respect of natives, and consequently larger annual deficits.

(*c*) These increased recurrent deficiencies in Swaziland revenue, and the nature of the provision for them, laid down by Section 13, would not only tend to hinder the development of Swaziland, but would embarrass the Union Government themselves in extending to Swaziland any reasonable share in the general prosperity of South Africa because of the specific and conspicuous sanction that would be required in Parliament annually.

II. That the Swaziland Advisory Council recommends that in the Memoranda to be prepared by the Union Government for submission to the inhabitants of Swaziland in terms of the Joint Statement by General Hertzog and the Secretary of State for Dominion Affairs, alternative terms of transfer should be set out for consideration on their respective merits on the basis of:—

(*a*) Adaptation of the Schedule,

(*b*) Removal of European areas from the Schedule, and

(*c*) the removal of the whole territory from the Schedule, with the necessary native rights safeguarded bilaterally by the two Governments concerned.

III. That the Swaziland Advisory Council further recommends that during the period the Memoranda are in draft form copies should be submitted to them in order that their views or suggestions may be made available to the Union Government before a final draft is drawn up and submitted to the public.

RESOLUTION.

With regard to the question of the ultimate incorporation of Swaziland within the Union of South Arica, this Council desires to place on record:—

1. That it accepts the Joint Statement recently issued by the Imperial Government and the Government of the Union of South Africa as implementing the *Aide Memoire* of 1935.

2. That it welcomes the reassurance to the people of Swaziland that nothing definite will be decided before they have been given an opportunity to express their views on the subject.

3. That it particularly welcomes the statement that closer co-operation between the two Governments is to take place with the object of developing the territory and as a step in this direction the Council urges His Excellency the High Commissioner to take more adequate steps to persuade the Union Government to observe, both in spirit and in letter, the existing Customs Convention.

4. That it takes this opportunity of reiterating that in any scheme for the incorporation of the territory the following conditions should be provided for:—

(*a*) Railway construction along a route or routes most beneficial to the territory as a whole.

(*b*) The preservation of existing European and Native areas.

(*c*) The exclusion of the territory, or the European areas of the territory, from the operation of the Schedule to the Act of Union, so that the people of Swaziland shall have at least the same rights and privileges, both political and economic, as the citizens of other parts of the Union of South Africa may have.

(*d*) Adequate provision for full franchise rights to European residents of Swaziland.

Working Copy

Y. 6/227. No. 65. PROOF.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4th May, 1938.)

South Africa. [transmitted by No. 69]

(No. 243.) (Secret.)

SIR, Cape Town, 26th April, 1938.

I have the honour to transmit to you, for your consideration, the marginally noted despatch from the Resident Commissioner of the Bechuanaland Protectorate forwarding a letter signed by the Acting Chief Tshekedi Khama on behalf of the Bamangwato people regarding the question of the transfer of the government of the High Commission Territories to the Union.

2. No doubt the principal reason why the transfer is desired by the Union Government is that having regard to Section 151 of the South Africa Act, which is admitted to have a meaning and intention, it is derogatory to the prestige of the Union to have the transfer denied to them, since the High Commission Territories depend from an economic standpoint upon the Union's markets and owing to their geographical position should fall to be administered by the Union. I am in some doubt whether an explanation based on these or similar lines would assist in removing the suspicions of the natives regarding the motives of the Union Government, and I am inclined to believe that the avenue of approach which the Union Government are about to follow in their memoranda is likely to be more efficacious at this stage, i.e., a statement of the economic advantages to be derived from transfer together with particulars of the manner in which the administration of the Territories would be conducted in the event of transfer, with an indication of the way in which existing rights and privileges would be safeguarded.

I have, &c.,

WALTER C. HUGGARD,
High Commissioner.

Enclosure in No. 65.

SIR, Resident Commissioner's Office, Mafeking, 20th April, 1938.

I have the honour to transmit, for such action as Your Excellency may consider necessary, a letter addressed to the Secretary of State for Dominion Affairs by Acting Chief Tshekedi Khama, who signs on behalf of the Bamangwato people, regarding the question of the transfer of the government of the High Commission Territories to the Union.

2. I consider that a statement issued at the same time as the Memoranda by the Union Government, explaining in simple language for the benefit of the natives the reasons why transfer is desired by the Union Government, would do much to remove the suspicions of the natives regarding its motives.

I have, &c.,

C. N. A. CLARKE,
Resident Commissioner.

His Excellency,
The High Commissioner,
Cape Town.

Serowe, Palapye Road, Bechuanaland Protectorate, 11th April, 1938.

To the Secretary of State for Dominion Affairs, Downing Street, London.

OUR FRIEND,

With reference to the " Joint Statement regarding the transfer of the Government of the High Commission Territories to the Union " issued by General Hertzog and the Secretary of State for Dominion Affairs, and which Joint Statement was read to the tribe and myself duly gathered in kgotla by the District Commissioner at Serowe on 29th March, 1938, I have the honour to draw the Right Honourable the Secretary of State's attention to the following:—

The phrases that Section 151 of the South Africa Act " has a meaning and intention " and that His Majesty's Government in the United Kingdom " fully recognize the significance of the

Section and do not seek to minimize it", are disturbing, and may I be permitted to say, more particularly as the purview of this Section was fully dealt with in the Parliamentary White Paper dated Westminster, 31st July, 1934. We Protectorate Natives had always held, and still hold, the view found by Lord Selbourne's Committee as correctly stating the effect of Section 151.

We would further state that the Protectorate Natives were no parties to the Act of Union nor were they ever consulted in regard thereto, nor have they ever acquiesced in the view that they must of necessity *at any time* be incorporated in the Union.

We note that it is deemed desirable that the peoples of the Territories should have a clear picture of the terms on which transfer of the Government would take place, if *decided upon*, and that memoranda dealing therewith are being prepared. But it is surely for the Union Government, who are pressing for the transfer to take place, to give reasons first of all for making this demand for transfer. No reasons have as yet been given. There must be some purpose advantageous to the Union to necessitate this pressure for transfer, and this purpose has never been expressed or explained to the Protectorate Natives.

The reference to the Schedule of the South Africa Act, 1909, is not clear to me, in as much as both the people directly concerned, must be aware that since the Statute of Westminster, and the Union Status Act, and from a decision of the Appellate Division of the Supreme Court of South Africa, it is clear that neither any Section nor the Schedule of the South Africa Act has any permanent binding force upon the present or any future Government of the Union.

So far we have had little time or opportunity for considering the proposed Joint Advisory Conference, but we shall study it carefully, and also the foreshadowed memoranda, when we receive it, and shall communicate again with the Right Honourable the Secretary of State for Dominion Affairs.

In the meantime we wish to place on record unequivocally our strong desire *not* to enter the Union of South Africa but especially as long as its present Native Policy remains in force.

I have, &c.,

TSHEKEDI KHAMA.

On behalf of the ~~Bamwato~~ People.

Working Copy

Y. 6/220. No. 66. **PROOF.**

SIR EDWARD HARDING (DOMINIONS OFFICE)

to

SIR WALTER HUGGARD (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND).

[*Answered by No.* ~~Y. 6/253~~ 72.]

(Secret.)

MY DEAR HUGGARD, Downing Street, S.W.1, 7th May, 1938.

We have been considering the question raised in your despatch No. 232 confidential of the 19th April* as to the action to be taken on the Resolutions passed by the European Advisory Council regarding the recent Joint Statement, and have had a short talk with Clark on the subject.

We agree with your view that the Union Government ought to be informed of these Resolutions but it seems difficult to pass them on without some comment on the main suggestion made by the Council, *viz.*, that in the event of transfer Swaziland, or at least the European areas, should be removed from the Schedule. It is not, of course, surprising that the Europeans do not like the Schedule, and during the discussions which took place between Lord Athlone and General Hertzog in 1926 regarding the possible transfer of Swaziland, General Hertzog himself proposed, in order to meet the views of the Europeans, that the application of the Schedule provisions should be confined to the native areas and to matters in which natives were solely concerned. You may like to refer in this connexion to the correspondence printed on pages 104–120 of the White Book, Dominions (South Africa) No. 1. You will see that Lord Athlone pointed out to General Hertzog the great difficulties in the way of any proposal to restrict the application of the Schedule in this way and although modification of some of the detailed provisions in the Schedule may ultimately be found desirable, it is clear that we must proceed at present on the basis that the general scheme of the Schedule must in the interests of the natives be maintained.

In the circumstances it would be undesirable to give General Hertzog the impression that we regard the Council's suggestion as to the virtual abandonment of the Schedule System as an open question. We are inclined, therefore, to think that if you agree the best course might be for you to communicate the Resolutions semi-officially to General Hertzog explaining, in doing so, that the Secretary of State thought that he should be aware of them; that it is not contemplated that any reply should be sent at present; that any views put forward, after the publication of the Union Memoranda, by either the Native or European sections of the populations of the Territories will no doubt be considered in consultation between the Union and United Kingdom Governments; but that, as he is aware, we attach great importance to the maintenance of the general scheme of administration provided for in the Schedule and that the proposal in the Resolutions for the removal either of the whole of Swaziland, or of the European areas, is not one which the Secretary of State would regard as practicable.

The same point really arises on the questions by Mr. Pierce which you enclosed in your letter [to me] No. 1064 of the 12th April†, since I think it must be assumed that in asking that "the inhabitants of the Territory should be on at least an equal footing with their compeers in the Union" (a phrase which was repeated in the first of the subsequent Resolutions of the Council) he is in effect requesting the abandonment of the Schedule system. We agree that you might ascertain whether General Hertzog would be willing that it should be explained, if the occasion arises, that the two Governments will of course be willing to consider any views put forward, after publication of the Memoranda, by the inhabitants of the Territories—though we doubt if it would be advisable for the issue of the Memoranda to be accompanied by a published statement by the Union Government to this effect. As regards the second question, it would seem best to confine any reply to an explanation that the question under discussion is not one of the incorporation of the Territories in the Union, but that of the transfer of their Government to the Union in terms of Section 151 of the South Africa Act, and that it would be premature to discuss the detailed application of the provisions of the Schedule pending the issue of the Union Memoranda.

You may, however, think that it is not necessary to give Mr. Pierce any further reply unless he repeats the questions.

Yours, &c.,

E. J. HARDING.

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* No. ~~Y. 6/220~~ 64.

† No. ~~Y. 6/211~~ 63.

S.A.H.C. Territory—(C.31202/224). 24.

Working Copy

P.Q./Y 6/34. No. 67. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT OF 10TH MAY, 1938.

South Africa (High Commission Territories).

5. MR. CREECH JONES asked the Secretary of State for Dominion Affairs whether any instructions have been issued to the representatives of the South African Protectorates on the recently created Joint Conference with the Union Government in South Africa to consider the well-being of these Territories; if so, what is their nature, and whether any consultations have been arranged with the natives concerned; and whether any methods have been worked out for ascertaining their wishes?

THE SECRETARY OF STATE FOR DOMINION AFFAIRS (MR. MALCOLM MACDONALD): No special instructions of the nature referred to have been issued. It will naturally be the object of the Resident Commissioners, who represent the Territories on the Joint Advisory Conference, to promote the well-being of the Territories for the administration of which they are responsible. The Resident Commissioners will keep in close touch with the native chiefs in the Territories, with a view both to keeping them informed of progress in the Joint Advisory Conference's work and to discussing with them proposals which may come before the Conference.

MR. CREECH JONES: If the ultimate purpose of this policy is that the Protectorates should form some part of the Union of South Africa, is it not desirable that definite instructions should be given by the Government to the Commissioners who are serving on this Conference, and should not some more direct contact be kept with the natives concerned?

MR. MACDONALD: The Conference has nothing whatever to do with the question of transfer. The Conference is simply concerned with co-operation between the Administrations and the Union Government on schemes which may be for the economic well-being of the Territories, without prejudice to the question of transfer or the attitude of the natives towards it.

MR. RILEY: Will the Conference inquire as to what is the attitude of the natives towards the question of transfer, and the conditions in which transfer might be accepted by them?

MR. MACDONALD: The Conference has nothing to do with the question of transfer, or the attitude of the natives towards transfer. That question is being dealt with quite separately, in another way altogether.

MR. PALING: Is not this Conference intended to pave the way towards transfer?

MR. MACDONALD: The Conference is purely concerned, as has been announced, with considering schemes which may help the economic development of the Territories.

MR. HANNAH: Is not this one of the rare cases where hurry is not desirable?

S.A.H.C. Terr.—(C.29901/216). 24.

Y. 6/245. No. 68 PROOF

Working Copy.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND,
THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 11th June, 1938.)

[*Answered by No.* ~~Y. 6/245.~~ 71.]

(No. 328. Confidential.)

My Lord, Cape Town, 3rd June, 1938.

I have the honour to refer to my confidential telegram No. 109 of the 9th May* regarding the minutes of the meeting of the Joint Advisory Conference held at Pretoria on the 6th May.

2. I enclose, for your consideration, a copy of a letter received from the Secretary of that Conference submitting for my approval the attached draft communiqué approved by the Conference.

3. If you see no objection I propose to inform the Secretary of the Conference that I approve the terms of the draft.

I have, &c.,

WALTER C. HUGGARD,
High Commissioner.

Enclosure in No. 68 .

(Secret.)

Sir, High Commissioner's Office, Cape Town, 30th May, 1938.

I have the honour to inform you that at the first meeting of the Joint Advisory Conference held on the 6th May, it was agreed that there should be no publication by members of the proceedings of the Conference to the Press or public except by means of a communiqué, the draft of which would be prepared by the Conference and would require the approval of the High Commissioner and the Prime Minister before issue by the Secretary.

I now submit for your consideration a draft communiqué approved by the Conference.

A copy of this draft has been sent to the Prime Minister.

I have, &c.,

E. H. Asiton,
Secretary.

His Excellency
The High Commissioner for
Basutoland, the Bechuanaland
Protectorate and Swaziland.

Communiqué.

The Joint Advisory Conference, constituted under the terms of the Joint Statement regarding the High Commission Territories issued by General Hertzog and the Secretary of State for Dominion Affairs on the 29th March, held its first meeting in Pretoria on the 6th May, 1938, under the chairmanship of the Resident Commissioner of the Bechuanaland Protectorate.

The Conference dealt solely with matters of procedure. The study of openings for closer co-operation between the Territories and the Union Government on the lines indicated by the Joint Statement will be undertaken at the next meeting which will probably be held after members have visited the Territories to acquire local information in connexion with the work of the Conference.

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* Y. 6/230: not printed.

S.A.H.C. Territory—(C.30846/222). 24.

Y 6/227.

No. 69.

PROOF.

DESPATCH

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(No. 314. Secret.)

SIR,

Downing Street, S.W.1, 20th June, 1938.

I have the honour to acknowledge the receipt of your Secret despatch No. 243 of the 26th April* transmitting a letter from the Acting Chief Tshekedi Khama regarding the question of the transfer of the Government of the High Commission Territories to the Union.

2. I should be glad if you would cause the Acting Chief to be informed that I have received his letter and noted what he says, but that I feel that it would be premature for the subject to be carried further pending the issue of the memoranda which are being prepared by the Union Government.

I have, &c.,

STANLEY.

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* Y. 6/227: not printed.

S.A.H.C. Terr.—(C.30527/219). 24.

Working Copy.

Y. 6/251. No. 70. PROOF.

82

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND,
THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 4.17 p.m., 21st June, 1938.)

No. 132. 21st June. Confidential. My Confidential despatch No. 328 of 3rd June*. Prime Minister has notified the Secretary of the Joint Advisory Conference that he has no objection to the publication of the communiqué proposed.

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* No. ~~Y. 6/248.~~ 68.

S.A.H.C. Territory—(C.30846/221). 24.

Working Copy

Y. 6/245. No. 71. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND,
THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 1 p.m., 22nd June, 1938.)

No. 90. Your despatch No. 328 of the 3rd June*. No objection to proposal in paragraph 3.

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* No. ~~Y. 6/245~~. 68.

S.A.H.C. Territory—(C.30846/220). 24.

Working Copy. 62

Y. 6/253. No. 72. PROOF.

SIR WALTER HUGGARD (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND)

to

SIR EDWARD HARDING (DOMINIONS OFFICE).

(Received 23rd June, 1938.)

(No. 1687.)

(Secret.)

MY DEAR SIR EDWARD, Cape Town, 14th June, 1938.

Thank you for the views* regarding the action to be taken on the Swaziland European Advisory Council's Resolutions concerning the Joint Statement of the 29th March.

I enclose, for your information, a copy of my letter to the Prime Minister on the lines you suggested and of his reply accepting your views. I am acknowledging General Hertzog's letter and informing him that a copy of his letter is being transmitted to the Secretary of State.

As regards the questions by Pierce enclosed with my letter to Machtig No. 1064 of the 12th April†, I think that he is certain to repeat these at the next Advisory Council meeting. I will, however, wait until the matter is raised again before communicating the answers to Bruton.

Yours, &c.,
WALTER C. HUGGARD.

Enclosure 1 in No. 72.

(No. 1444.)

(Secret.)

MY DEAR PRIME MINISTER, Cape Town, 20th May, 1938.

I enclose, for your information, copies of two Resolutions passed on the 5th April by the European Advisory Council of Swaziland‡ regarding the Joint Statement issued by you and the Secretary of State for Dominion Affairs on the 29th March.

Mr. Malcolm MacDonald thought that you should be aware of these Resolutions; it is not, however, contemplated that any reply should be sent to them at present.

Any views put forward after the publication of the Union memoranda, by either the Native or European sections of the populations of the Territories, will no doubt be considered in consultation between the Union and United Kingdom Governments, but, as you are aware, the United Kingdom Government attach great importance to the maintenance of the general scheme of administration provided for in the Schedule, and the proposal in the Resolutions for the removal from the Schedule either of the whole of Swaziland, or of the European areas, is not one which the Secretary of State would regard as practicable.

I also enclose a copy of a question which was put by one of the members of the Swaziland European Advisory Council at the last meeting of that Council. As it seems possible that similar questions may be raised in the future Mr. Malcolm MacDonald has authorized me to ascertain whether you would be willing that it should be explained, if the occasion arises, that His Majesty's Governments in the Union and in the United Kingdom will of course be willing to consider any views put forward, after publication of the Memoranda, by the inhabitants of the Territories.

He would not, however, propose that the issue of the Memoranda should be accompanied by a published statement by the Union Government to this effect.

Yours, &c.,
WALTER C. HUGGARD.

General The Hon. J. B. M. Hertzog, K.C., M.P.

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* No. ~~Y. 6/220~~. 66 † No. ~~Y. 6/271~~. 63. ‡ Sub-enclosures in No. ~~Y. 6/220~~. 64.

Enclosure 2 in No. 72

(Secret.)

MY DEAR SIR WALTER, Prime Minister's Office, Pretoria, 9th June, 1938.

In acknowledging the receipt of your letter of the 20th of May, I wish to request you to be so kind as to convey to Mr. Malcolm MacDonald my sincere thanks for his kind consideration in sending me copies of the two resolutions passed by the European Advisory Council of Swaziland on the 5th of April* regarding our Joint Statement of the 29th of March.

I shall appreciate your giving the assurance that I am in full agreement with the suggestion that it could be explained, if the occasion arises, that His Majesty's Governments in the United Kingdom and in the Union will be willing to consider any views put forward, after publication of the Memoranda, by the inhabitants of the Territories.

I also agree with the proposal that the issue of the Memoranda should not be accompanied by a published statement by the Union Government to this effect.

Yours, &c.,

J. B. M. HERTZOG.

His Excellency Sir Walter Huggard,
His Majesty's High Commissioner for
Basutoland, the Bechuanaland Protectorate and Swaziland,
Cape Town.

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* Sub-enclosure in No. ~~Y. 6/228~~ 64.

Working Copy.

Y. 6/288. No. 73. PROOF.

EXTRACT FROM HOUSE OF ASSEMBLY DEBATES—UNION No. 1, 29TH JULY, 1938.

PROTECTORATES.

The PRIME MINISTER replied to Question XI by Mr. Marwick, standing over from 26th July.

Question:

(1) Whether any development has occurred since the 15th February, 1938, in the negotiations between the British Government and the Union Government with reference to the proposal for the transfer of the High Commission Territories to the Union Government: and, if so,

(2) whether he will lay particulars thereof upon the Table.

Reply:

(1) and (2) The two Governments have been in communication with each other after the 15th February, 1938, but I do not think it advisable that at this stage any particulars relating thereto should be tabled.

MR. MARWICK: Will the Prime Minister consider the question of the natives being represented on the joint commission that is being appointed to consider the conditions of transfer of the Protectorates?

The PRIME MINISTER: I am very sorry, I don't quite understand what the hon. member means. Will the hon. member put it on the Table?

S.A.H.C. Terr.—(C. 31462/228). 24.

Working Copy

Y. 6/268. No. 74. PROOF.

SIR EDWARD HARDING (DOMINIONS OFFICE)

to

SIR WALTER HUGGARD (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND).

(Secret.)

MY DEAR HUGGARD, Downing Street, S.W.1, 8th August, 1938.

The Secretary of State has taken the opportunity of Sir William Clark's presence in this country to discuss with him certain questions regarding the procedure to be followed as to the publication of the Union Memoranda in connexion with the question of transfer of the government of the Territories. As the result of this discussion, and of further consideration by the Government here, the following course of action has now been approved:—

(*a*) It is proposed that when the Union Memoranda are available, the High Commissioner should issue instructions to the Resident Commissioners regarding the presentation of the Memoranda to the Native Authorities in terms of the enclosed draft despatch. You will see that the despatch to the Resident Commissioner of the Bechuanaland Protectorate will have to be worded somewhat differently from that to the other two, and it will be necessary to consider, in consultation with him, whether he should summon a meeting of the Chiefs or pass on the instructions to District Commissioners. The instructions will have to be communicated in draft to General Hertzog: it is not contemplated that his formal concurrence should be sought but that he should be given an opportunity of making observations, if he has any.

(*b*) As regards General Hertzog's previous request that Union representatives should be given an opportunity of attending Pitsos and similar gatherings of natives in order to elucidate the Memoranda, it is proposed that it should be explained to the Union Government that there is no objection to Union representatives meeting the Chiefs (with the Resident Commissioner concerned present) but that as regards discussions at Pitsos and Kgotlas it seems best to feel the way and to consider the matter further in the light of the impressions which the Union representatives receive at their discussions with the Chiefs.

(*c*) As regards Document E, it is proposed that Clark, on his return to South Africa, should resume the discussion with General Hertzog on the lines indicated in Clark's telegram to the former of the 23rd March last*. If, however, it should appear that General Hertzog is unwilling to abandon the Memorandum altogether, it should be proposed to him that it would be as well at least to hold it in reserve and to use it as a document which could be communicated by the Union officials to the native authorities in the Territories if questions should arise as to the Union native policy in the course of the discussions which it is contemplated will take place between the Chiefs and representatives of the Union Government. Under this procedure it would be clear that the officers of the Administration were not themselves associated with Memorandum E.

(*d*) As regards document C, I enclose a copy of an *Aide-Mémoire* setting out the difficulties felt here as to the statement that the Territories on transfer would become part and parcel of the Union as a " political unit ". It is contemplated that some convenient opportunity should be taken to discuss the matter with the Union authorities on the lines of this *Aide-Mémoire*.

We do not suggest that you should take action as indicated above at the moment, unless need should arise, and, subject to your discretion, the matter can wait until Clark (who has a copy of this letter) returns to South Africa.

Yours, &c.,

E. J. HARDING.

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* Y6/270: not printed.

S.A.H.C. Territories—(C.30846/223). 24.

Enclosure 1 in No. 74

APPENDIX B.

DRAFT INSTRUCTIONS FROM HIGH COMMISSIONER TO RESIDENT COMMISSIONERS REGARDING SUBMISSION TO PARAMOUNT CHIEFS AND CHIEFS OF UNION MEMORANDA.

Resident Commissioner, Basutoland.
Resident Commissioner, Swaziland.

[NOTE.—A similar letter would be sent to the Resident Commissioner, Bechuanaland Protectorate, but would have to be worded differently as there is no Paramount Chief there.]

You will remember that in the Joint Statement regarding the High Commission Territories issued by General Hertzog and Mr. Malcolm MacDonald on the 29th March, 1938, it was intimated that, with a view to clarifying the whole question, the Union Government would prepare certain Memoranda setting forth in a convenient form the terms and conditions on which they would propose that the transfer of the Government, if decided upon, should take place. It was felt that this procedure would enable the peoples of the Territories to appreciate the conditions under which, in that event, the Territories would be governed, the position in regard to the maintenance of the tribal institutions of the natives, the economic advantages which the Union Government anticipate would accrue to the peoples of the Territories, and any other relevant matters.

2. Copies of the Memoranda prepared by the Union Government have already been sent to you so that you might have them translated into Sesuto (Swazi). The Union Government now propose to publish the Memoranda in the Press on
and after discussion with them we are in agreement that it is desirable for copies to be given to the Paramount Chief, for his confidential information *on the day (*two days) previous to publication. You should, therefore, arrange to hand copies to the Paramount Chief on the morning of

3. When giving the Memoranda to the Paramount Chief, you should make it clear that the object in view in the preparation and publication of these Memoranda is as described in the first paragraph of this letter, and you should impress upon him that it is his duty and that of his Councillors in studying them to keep in mind what will be best, alike in the present and the future, for his people.

In order to avoid any misapprehensions, you should remind him that, as was intimated in the Joint Statement, the position of His Majesty's Government in the United Kingdom remains governed by the pledges which were given during the passage of the South Africa Bill through the United Kingdom Parliament in 1909, namely, that transfer should not take place until the wishes of the natives of the Territories had been most carefully considered and that before such transfer the United Kingdom Parliament should be given the fullest opportunity of expressing its views.

4. You should further make it clear to the Paramount Chief that he is not being invited to express an opinion, formal or informal, upon the matter. The Memoranda have been prepared by the Union Government simply for the information of the Chiefs and peoples of the Territories. You should add that the Union Government will be glad to arrange for visits to the Territories of representatives who will be in a position to answer any questions on the Memoranda which the Paramount Chief or his Councillors may wish to ask or to give such further information as may be required and that the High Commissioner feels it is desirable that the Paramount Chief should avail himself of this offer.

Enclosure 2 in No. 74

AIDE-MÉMOIRE.

Document C setting forth the advantages, economic and others, which might be expected to result to the inhabitants of the Territories from the transfer of the government of the said Territories states that " upon transfer of the government, the Territories would, as near as possible, become part and parcel of the Union as an economic and political unit ".

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* The number of days in advance has not yet been decided.

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It is felt that this reference to the Territories forming part of the Union as a political unit may give rise to complications and to misunderstanding on the part of the natives, as it seems to suggest that the Territories would be incorporated in the Union. What was contemplated, however, in the South Africa Act was the transfer to the Union of the government of the Territories subject to the terms and conditions embodied in the Schedule and it is not thought that it would be advisable to use any wording which might suggest that under the system of government outlined in the Schedule the Territories would become politically part of the Union. The position in this respect is made clear in Document A and further reference to the political status of the Territories upon transfer would seem out of place in Document C, which deals with the economic advantages expected to result from transfer.

Y. 6/288. No. 75. PROOF.

UNION HOUSE OF ASSEMBLY.

EXTRACT FROM ASSEMBLY DEBATES NO. 6, 29TH AUGUST–2ND SEPTEMBER, 1938.

31st August, 1938.

MR. MARWICK: The question of the incorporation of the Protectorates within the Union at some future date is one which is engaging a great deal of attention in the minds of the public at the present time. The public, I think, have been given to understand that His Majesty's Government of the United Kingdom, and His Majesty's Government of the Union of South Africa have agreed upon the appointment of a consultative committee, whose duty it will be to try and arrive at a series of conditions that the natives of the several Protectorates should be got to understand. The information in regard to that point has been somewhat nebulous, and I don't think the public generally have been made acquainted with the precise nature of the terms of reference of that consultative committee. Will the Prime Minister take this opportunity of telling the Committee what has been agreed to, who are the members of the consultative committee concerned, and how their work is progressing? There is one point that I think is of some importance in connexion with that matter, and that is the desirability of taking the natives of the Protectorates into consultation. We have seen recently published articles in the Press discussing the attitude of the natives of the various Protectorates. I think Sir John Harris has contributed several to one of the leading newspaper groups of this country, and I think we are all impressed with the necessity of taking the natives into consultation as to whatever work the consultative committee may have in hand. I hope the Prime Minister may be able to tell us this afternoon about the work of the consultative committee to which I have referred.

THE PRIME MINISTER: As far as that is concerned, sir, the committee has only just been appointed. What their duties are has been published to the world, but they have not been able as yet, they have not had time, to come to any decision on any point of importance. Their functions as a whole have the general tendency of getting to know, and letting the natives know, what is being done, and along those lines to get facts and to bring about a state of feeling in the country which will be conducive to the ultimate transference.

Vote put and agreed to.

S.A.H.C. Territory—(C.31462/230). 24.

Y. 6/309 S. No. 76. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

GENERAL J. B. M. HERTZOG (PRIME MINISTER OF THE UNION OF SOUTH AFRICA).

(Personal.)

DEAR GENERAL, Downing Street, S.W.1, 29th November, 1938.

One of the pleasures of taking up duty again as Secretary of State for Dominion Affairs is that our association of the last few years will be renewed. Since returning to the Dominions Office I have naturally been anxious to pick up the threads of the various current questions, and amongst them those with regard to the High Commission Territories about which we have had discussions and correspondence in the past.

As I understand it, the present position is that the Joint Advisory Conference which was established in accordance with our joint statement of the 29th March last*, and which has already met once, will meet again to study the openings for closer co-operation between the Territories and the Union as soon as the members have been able to complete their visits to the Territories. These are now, I understand, in progress. I hope that thereafter the Conference will be in a position to begin the work of making practical proposals.

As regards the other steps contemplated in our joint statement, viz., the issue of memoranda by the Union Government, I gather that there is no further action which can usefully be taken at the moment on the part of the United Kingdom Government, since the terms of these memoranda are still under revision by the Union authorities. But Sir William Clark will, of course, keep in touch with you and Mr. Fagan about this.

I wish to assure you of my keen personal, as well as official, interest in doing whatever I can to forward the policy of co-operation between our two Governments on this matter.

With kindest regards,

Yours, &c.,

MALCOLM MACDONALD.

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* *See* No. ~~P.O./Y. 6/29.~~ 58.

S.A.H.C. Territory—(C.32732/282). 24.

Working Copy.

Y. 6/329. No. 77. PROOF.

SIR WILLIAM CLARK (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND)

to

SIR EDWARD HARDING (DOMINIONS OFFICE).

(Received 8th May, 1939.)

(Personal.) [Enclosed by No. 81]

MY DEAR HARDING, Cape Town, 28th April, 1939.

I have now received from Fagan the revised draft of the Union memoranda relating to the transfer of the Protectorates. In his covering letter Fagan asks for my comments, and says that he presumes the next step, apparently after he has received my comments, will be to ask the Prime Minister to transmit a copy of the memorandum to the Secretary of State. I am replying that I have no comments to make at this stage, and am suggesting that he should now invite the Prime Minister to forward the memorandum to the Secretary of State, in case the latter may wish to offer some observations.

In the meantime I enclose copies*, as it may be convenient for the Duke of Devonshire to see the memorandum in its present form before he sails.

You will observe that the memorandum has been greatly condensed. Formerly there were a number of separate documents numbered A to E, which have now been combined into a single memorandum. Document E dealing with Union native policy has disappeared altogether.

The sections dealing with the European populations of the Territories have been condensed into a single paragraph at the beginning of the present document. I suppose the Union Government felt that they would in any case have the Europeans on their side, and that it was unnecessary to spread themselves on this theme.

The important paragraphs dealing with constitutional safeguards remain unchanged.

The part of the memorandum dealing with the advantages of transfer from the native standpoint has become more realist. The main emphasis is now laid on what one may call the negative side of the situation, i.e., there is an enumeration of existing privileges which might be forfeited if transfer were unduly postponed. A page is devoted to the advantages which the Union provides as a market for the surplus labour of the Territories; and it is perhaps not altogether honest to lay so much stress upon this particular aspect, as the labour of our Territories is, and seems likely to remain, indispensable to the Union, alike for agricultural, mines and industries. However, it seems hardly necessary to lodge an objection on this head.

In the concluding paragraph of this section, on page 5 of the memorandum, it is stated that "only the transfer of the Territories, therefore, could permanently ensure to the inhabitants of the latter that measure of equal treatment for their products which they at present share with citizens of the Union." Actually, of course, the Territories do not at present get equal treatment for their products in view of the weight restrictions on cattle etc., a fact of which our natives are fully aware. They will not therefore find this paragraph wholly convincing, but that is hardly our affair.

The positive advantages which the Union is in a position to confer seem to me to be fairly stated in general terms on page 6. The most important of these perhaps is transport facilities, but whether the Union Government would really contemplate building, e.g., a railway through Swaziland is perhaps doubtful.

On page 7 there is a summary of the policy which the Union Government intends to pursue towards the natives of the Territories. The undertaking to continue the allowances hitherto paid to Chiefs by our administrations (paragraph (*a*)) did not appear in the previous documents. Nor did those documents contain paragraph (*e*) about land in Swaziland.

My feeling about the new memorandum is that it is definitely an improvement on the former effort, and that there is nothing in it to which we need take exception. I should think that we might agree with the Union Government that it should be issued shortly after the Duke of Devonshire has left the Union. It will be a fortnight or more before you receive it officially and presumably the Secretary of State's comments will not be in the hands of the Union Government for another three or four weeks, which will take us up to the middle of June or later. It will then have to be translated into the vernaculars, which will take a little time in view of its being practically a new document.

Yours, &c.,

W. H. CLARK.

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* ~~Not printed here.~~ Enclosed in No. 79.

S.A.H.C. Territories—(C.35024/237). 24.

Y. 6/331. No. 78. PROOF.

"Working Copy"

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(No. 277.) (Confidential.)

(Received 17th May, 1939.)

SIR, Cape Town, 9th May, 1939.

I have the honour to transmit herewith a copy of the First Report of the Joint Advisory Conference on co-operation between the Union Government and the administrations of the Territories which was adopted by the Conference at their meeting held in Cape Town in February last. The Report is concerned with matters affecting the Bechuanaland Protectorate and Swaziland only, the members of the Conference not having yet had an opportunity of visiting Basutoland.

2. In paragraphs 7-9 of the Report the Conference summarize the considerable number of matters in connection with which co-operation already exists. They then draw attention to the essential economic unity of the Territories and the Union, and proceed to examine the possibilities of further development in which the Union might help. It will be observed that they are very cautious—and of course quite rightly—in touching upon the question of financial assistance by the Union and are also very tentative on the possibility of railway development in Swaziland. They point out, however, that in connection with the scientific and technical aspects of developmental work, there is scope for increasing the measure of co-operation which already exists, and it is suggested (paragraph 19) that, when planning future schemes of development, the administrations of the Territories might approach the Union Departments concerned with a view to ascertaining to what extent advice or assistance would be available.

3. Nearly half the report is devoted to what is described in paragraph 20 as the twin problem of cattle markets and cattle disease. The economic aspect of the problem is first analysed and two methods of dealing with the surplus cattle production of the countries of Southern Africa (excluding the Rhodesias) are examined. The Conference conclude that the present method of leaving each separate Territory to deal with its own production, subject to such arrangements as it can make to secure a share in the Union market, is, for the reasons given in paragraph 26, unlikely to prove satisfactory; and that the balance of advantage will lie with the alternative policy of pooling the better prices obtained on the Union markets with the lower world price, and the distribution of the proceeds among all interested parties (paragraph 27). They then, however, enter a hasty caveat in paragraph 28(*a*) which emphasizes the factors limiting the capacity of South African markets for the absorption of cattle.

4. Study of this section of the Report indicates clearly the difficulties which the Conference have been brought up against. We know that the Union Department of Agriculture rejected a proposal for recommending the removal of the weight restrictions upon cattle entering the Union from the Territories, and the very tentative wording of these paragraphs represents, no doubt, the attitude of Dr. Viljoen in his capacity as Secretary to the Department of Agriculture. Strictly speaking, the Conference do not make any recommendation in regard to the existing restrictions; they do, however, express the opinion that the pooling policy is the more advantageous, and that policy, as I understand the matter, must involve the free admission into the Union of cattle from the Territories. You will also observe that they endeavour to reinforce this expression of opinion by insisting in the last paragraph of the Report on the essential importance of the cattle industry both to Swaziland and the Bechuanaland Protectorate, and especially to the latter. I do not, however, believe that there is any prospect of the Union Government removing the restrictions. Political considerations will be far too strong.

5. The report next deals with the veterinary aspect of the cattle problem, and, after stressing the importance of co-operative measures and uniformity of action, makes the suggestion that the Union might inaugurate an investigation, in conjunction with the veterinary officers of the Territories, of the position in respect of stock disease and veterinary control in the Bechuanaland Protectorate and Swaziland. I see no objection to this proposal: indeed it is desirable that Union veterinary officers should be given every opportunity of satisfying themselves as to the adequacy of the measures taken for the control of cattle disease in the Territories.

S.A.H.C. Territory—(C.35408/239). 24.

6. A copy of the Report has been communicated to the Prime Minister, and I shall presumably be advised of any comments or suggestions which he may have to offer.

7. The question of publicity for the Report has not yet been raised officially, so far as I am aware. Various rumours about it are floating about here and have appeared in the Press, with a good deal of confusion between this document and the memorandum of the Union Government upon transfer of the Territories; and sooner or later there will probably be a demand for publication. So far as concerns His Majesty's Government in the United Kingdom and the Administrations of the Territories, I see no objection; the Union Government on the other hand, may dislike the prominence given to the cattle industry and to the restrictions upon it. Seeing that the Conference is a fact-finding body, I think that we should support publication.

I have, &c.,

W. H. CLARK,

High Commissioner.

Enclosure in No. 78.

(Confidential.)

FIRST REPORT OF THE JOINT ADVISORY CONFERENCE ON CO-OPERATION.

Members:—

E. C. RICHARDS, C.M.G., Resident Commissioner of Basutoland (*Chairman*).
C. N. ARDEN CLARKE, Resident Commissioner of Bechuanaland.
C. L. BRUTON, O.B.E., Resident Commissioner of Swaziland.
J. E. HOLLOWAY, Secretary for Finance.
D. L. SMIT, Secretary for Native Affairs.
P. R. VILJOEN, Secretary for Agriculture.

1. During the first half of November, 1938, the members of the Conference made a tour of investigation through the eastern parts of Bechuanaland Protectorate as far North as Serowe and through Swaziland.

2. The time available to members did not allow them to visit the western and northern parts of the Protectorate and Basutoland. It is intended to do so at a later date.

3. The present report is concerned with the affairs of the Bechuanaland Protectorate and Swaziland and no comments here offered are meant to apply to the position of Basutoland, which the Conference has not as yet studied.

4. Dr. G. v.d.w. de Kock, Deputy Director of Veterinary Services, acted for Dr. Viljoen, who was detained in Pretoria, during the tour of Bechuanaland and part of Swaziland.

5. The main purposes for which the Conference was established was set out as follows in the joint statement issued by the Secretary of State for Dominion Affairs and the Prime Minister of the Union: " to study openings for co-operation between the Union Government and the Administrations in matters affecting the development of the Territories and to consider any matters of joint concern to the Union and the Territories such as prevention and control of animal diseases, marketing of produce, prevention of bubonic plague, etc.".

6. On examining the existing situation the Conference found that a very considerable measure of co-operation is already in existence. The services of many of the established institutions and organizations in the Union are available to the Territories either free or at cost price and, although no extra cost to the Union Government may be involved, the advantage to the Territories of not having to create separate organizations for these purposes is considerable.

7. A brief resumé is given below of the more important aspects of existing co-operation:

(*a*) the services of Union Judges are occasionally made available to take the Sessions of the High Courts of the Territories free of cost except as regards transport allowances;

(*b*) there is close co-operation between the police forces of the Union and the Territories in regard to training European ranks, classification, records, crime detection, arms and farriery services;

(*c*) use is made of the Union prison system for refractory long sentence prisoners and of Union reformatories for juveniles from the Territories at the cost of the Territory concerned;

(*d*) the collection of customs duties is under control of the Union Department in accordance with the terms of the Customs Convention;

(*e*) on the Witwatersrand the Territories have their own tax collection agency; elsewhere reciprocal arrangements exist whereby natives may pay their tax in their country of origin irrespective of where they are working and monies received by officers of the Union Government and the two Territories for this purpose are forwarded to the proper quarter;

(*f*) technical services of geologists, engineers, educationalists and other scientific workers, particularly in the field of agriculture, have from time to time been placed at the disposal of the Territories by Union Departments;

(*g*) there is close co-operation in education and many scholars, both European and Native, receive their education in the higher standards in Union schools, paying the ordinary fees;

(*h*) the Union provides a ready market for native labour to the advantage of both the Union and the Territories. The money so earned is largely spent on Union products and manufactured goods;

(*i*) there is close co-operation between the Control Boards in the Union and the producers of the products under their control in the Territories, the latter having in some cases representatives either in an advisory capacity or as full members on the Boards;

(*j*) the Territories to a large extent derive their supplies of vaccines, sera and medicines for animal diseases from Onderstepoort, and for human diseases from the S.A. Institute for Medical Research. Consultation on problems of common scientific interest takes place between the officers of the Territories and the scientific staffs at these institutions;

(*k*) there is a common policy of locust control; and in the case of the Bechuanaland Protectorate the cost of control measures undertaken in areas bordering on the Union is shared by the two Governments;

(*l*) there is co-operation on common problems of agriculture like seed selection, eradication of noxious weeds, etc.;

(*m*) the Railway and Airway Services of Bechuanaland and road motor services of Swaziland are controlled by the South African Railways, while the Union Post Office administers the postal and telegraphic services of Swaziland and controls the posts (but not the telegraphs) of Bechuanaland;

(*n*) dangerous mental patients are accommodated in the institutions of the Union at the cost of the Territories;

(*o*) Proclamations, Government Notices, etc., relating to the Territories are printed in the High Commissioner's Gazette by the Government Printer, Pretoria, at the expense of His Majesty's Government in the United Kingdom; Notices issued by the Administrations of the Territories at the expense of the Territory concerned.

8. In the course of their investigations the members of the Conference came across other matters not involving new departures in public policy in respect of which co-operation can be extended by establishing the necessary contacts between the officers administering the Territories and Union Government departments. Steps have been taken by the Union members to establish the necessary contacts, and it is not considered necessary to swell the volume of this report by enumerating what are purely matters of detail like school curricula, maintenance of border fences, burning of fire-breaks and matters of like order and of mutual interest or benefit.

9. We proceed to report on certain wider questions of co-operation. As these involve important matters of public policy, we confine ourselves to the task of drawing attention to possibilities of co-operation for the information of the respective Governments and their decision on what action is possible at this stage.

The Essential Economic Unity of the Territories and the Union.

10. We were impressed by the fact that in the economic sphere, the Union and the Territories form an essential unity of interest. The Union is the natural, if not the only, market for the products of the Territories, with comparatively few exceptions, and the Territories provide a valuable market for the manufactures of the Union. In the present state of international trade the Territories would have great difficulty in

finding remunerative markets elsewhere, should the Union markets be closed to them. This is particularly the case with cattle, the principal product of Bechuanaland and Swaziland (an aspect of the matter dealt with in detail later). The Union also provides a market for their surplus labour resources, which in turn are, at least for the immediate future, of considerable value to the Union for its own developmental work.

Development of Territories.

11. While, however, the Territories have a market in the Union for the bulk of their products and for their labour, developmental work has to some extent been retarded by political boundaries and limited financial resources. We have in mind such things as railway development in Swaziland, roads, bridges, soil erosion works, geological survey and education in respect of all of which the position in these two Territories is backward as compared with similar areas in the Union. We are aware that closer co-operation in these matters would involve important questions of policy, notably the expenditure of monies by the Union Government in Territories not under its jurisdiction. We therefore refer to them without examining them in detail.

12. It must be observed, however, that both Territories with the aid of grants and loans from the Imperial Treasury and the Colonial Development Fund have in recent years undertaken developmental work on a considerable scale. The extent of the financial assistance rendered by the Imperial Government and the nature of the schemes of development already undertaken are set out in the schedules attached.

13. It is particularly noticeable in Swaziland that the absence of railways retards development. Products have to be carried over long distances by motor transport. An investigation by the South African Railways into the technical and economic aspects of building a railway through this Territory might open up a possibilty of fruitful co-operation.

14. The position in regard to soil erosion in certain areas calls for attention. At its present stage this evil could probably be combated at comparatively slight cost, while if it is allowed to develop, the cost of remedial measures in the future will be largely increased. A grant has been provided from Colonial Development Funds for the construction of dams and small anti-erosion works in Swaziland. An offer of financial assistance was made by the Union Government a few years ago but not accepted by the Territories.

15. In connexion, however, with the scientific and technical aspect of the developmental work carried on in the Territories there is scope for increasing the measure of co-operation that already exists (see paragraph 7 (*f*) above).

16. The Administrations of the Territories frequently require scientific and technical advice. The volume of the work is not, however, large enough, and the diversity is too great to warrant the full-time employment of specialists in these fields even by the three Territories acting in conjunction.

17. On the other hand, the Territories themselves are engaged on scientific work, e.g., in the fields of veterinary science and pasture research, on lines parallel with or complementary to similar work carried on in the Union.

18. In such matters as pasture research, the planning and construction of access roads and bridges, irrigation, mining problems and inspection of mines, geological and hydrographic surveys, research into agricultural, veterinary and public health problems educational problems, etc., there is opportunity for close co-operation by way of advice, loan of technical officers or of equipment and machinery, and of comparison of results already obtained and joint-planning of parallel investigations.

19. It is suggested that when planning future schemes of development the Administrations of the Territories might in the first place approach the Union Departments concerned with a view to ascertaining to what extent advice or assistance in the form indicated above would be available. Whenever necessary, provisional arrangements for assistance would be subject to confirmation by the respective Governments.

Cattle.

20. Finally we come to the twin problem on which there is the largest measure of mutual concern, that of cattle markets and cattle disease. The Union, Bechuanaland Protectorate and Swaziland are all keenly interested in the economic and veterinary aspects of cattle raising and to this list must be added South West Africa and Southern Rhodesia.

21. We shall discuss the cattle problem first in its economic and secondly in its veterinary aspect.

The Economic Aspect of the Cattle Problem.

22. Bechuanaland and Swaziland (as well as South West Africa and Southern Rhodesia) all produce cattle and cattle products in excess of their own power of absorption. In accordance with bilateral *ad-hoc* arrangements with each of these countries the Union provides to a greater or less extent a market for their surplus cattle.

The Union market is, however, limited and during the past decade the cattle production in the Union and South-West Africa (which has free access to the Union market) has, moreover, reached the stage where it is generally sufficient to supply local market requirements. Union cattle breeders have, therefore, a very keen interest in the market not being flooded with supplies from all the possible sources to an extent which would depress prices to an unremunerative level. This interest is shared by the non-Union cattle raisers of all Southern Africa to the extent to which they are enabled to share in the Union market.

23. The two outstanding facts of the cattle position are as follows:—

(a) the countries South of the Zambesi and the Kunene produce a surplus of cattle over their joint requirements;

(*b*) as a result of the application of elaborate control machinery and the removal of the surplus through the payment of subsidies and bounties, the price-level of meat and dairy products in the Union, particularly on the Johannesburg market, is higher than that of the export market.

24. There are two methods in which the problems flowing from this situation can be met, viz.:—

(a) a policy might be followed which would pool the more remunerative prices derived from the Union market with the lower prices derived overseas and distribute the proceeds fairly among all interested parties, or

(*b*) a policy of leaving to each territory the solution of its own cattle problem subject to such arrangements as the non-Union territories can make to secure a share in the Union market.

25. The latter has been the policy hitherto followed. It has gradually evolved from a time when the Union could take all the surplus of neighbouring territories. As this surplus increased and Union production did the same, restrictions were placed on the free movement of cattle into the Union.

26. There are certain manifest disadvantages attaching to this method of dealing with the problem, the most important of which are as follows:—

(*a*) It is not easy of effective administration. The lengthy land-borders of the Union make evasion easy and cattle smuggling has become a notorious evil, difficult to control except at considerable cost in non-productive activities of police and border-guards.

The picturesque phrase "smuggling-parity" in relation to the price of cattle shows how smuggling has come to be regarded as a settled order of things in the Bechuanaland Protectorate.

It is frequently alleged that there is a "cattle racket" with powerful financial backing and that pressure is exerted on any Union border-guards who are found to take a too conscientious view of their duties.

(*b*) Smuggling greatly increases the difficulties of effective disease-control.

(*c*) Measures taken to restrict access to Union markets cause unpleasantness and bad-neighbourliness among territories which have many common interests. In Bechuanaland the European farms of the Tuli Block have practically become derelict, and this is ascribed primarily to the restrictions of access of cattle to the Union.

(*d*) It is difficult for the Territories with a small revenue to take the only practical and effective step of subsidizing export in order to dispose of their surplus cattle which cannot find an entrance to the Union market. For this reason the Abattoir and Cold Storage plant at Lobatsi in Bechuanaland has worked only intermittingly. Very little can therefore be done to relieve the pressure of surplus cattle in such Territories and the pressure on the Union market continues.

(*e*) Even with the Policy of restriction, it has become necessary for the Union to come to the aid of its neighbours by subsidizing their export. This is done in respect of the subsidy on railway rates for cattle and beef destined for export overseas from Rhodesia and Bechuanaland, while a subsidy is paid in respect of the export of dairy products from South-West Africa to divert the surplus from the Union market.

(*f*) Uniformity of quality; volume of exports and continuity of supplies are not facilitated where each state organizes the export of its surplus individually.

27. On the other hand certain advantages may be expected to accrue to all concerned from the adoption of the alternative policy set out in paragraph 24 (*a*). The most important of these are:—

(*a*) Better disease-control.

(*b*) Saving of the costs incidental to restriction.

(*c*) The possibility of inaugurating a long-range cattle policy aimed at such objectives as the rearing of store-cattle in suitable areas for fattening in the grain areas, the differentiation between dairy and beef areas, the concentration in suitable areas on the rearing of animals conforming to the requirements of the export market, and the spreading of the necessarily heavy overhead costs of export over a larger volume of exports.

28. While it would seem that the policy outlined in paragraph 24 (*a*) has many advantages in dealing with the surplus cattle problem of the Territories, the following considerations will have to be borne in mind when deciding on the policy to be pursued:—

(*a*) The development of cattle production in the Union and South-West Africa as described in paragraph 23 limits the power of absorption of the Union markets for cattle from other South African territories. Moreover, as a result of the comprehensive measures at present being applied for the improvement of the beef industry, as well as the natural pastures, the problem of disposing of any surplus is likely to become even more acute in the future.

(*b*) It will be a matter for consideration of the Territories whether they can and desire to impose the levies or grant the bounties or subsidies required to cope with the problem of surplus cattle.

(*c*) A further condition is a uniform policy of disease control, a matter to which we refer later.

The Veterinary Aspect of the Cattle Problem.

29. The unity of interest of all Southern Africa in eradication of cattle disease is plain. If, for example, foot and mouth disease were to become enzootic in Southern Africa the restrictions which different overseas countries impose on imports, not necessarily only of animal origin, from countries where this disease is prevalent, would have a most damaging effect on the trade of all Southern African states.

Closer co-operation between the Union and the High Commission Territories in this respect would redound to the benefit of all.

30. As the sole object of veterinary policy both in the Union and in the Territories is the control and eradication of animal diseases, a large measure of co-operation is possible. This should aim at a uniform veterinary policy, uniform veterinary standards and as far as possible uniform methods of disease control.

31. As the Union has not only the largest aggregate interest in disease control, but also the largest and best equipped laboratories and the most extensive trained staff, it might take the lead in inaugurating an investigation, in conjunction with the veterinary officers of the Territories, of the stock disease and veterinary control position in Bechuanaland and Swaziland. Such an investigation would be a valuable step forward in the direction of closer co-operation in this field of mutual interest, and should also assist in smoothing difficulties which result from veterinary restriction where the disease position renders such restrictions necessary.

32. In conclusion we would point out that the amelioration of the position in regard to cattle would in our opinion do more towards the development and improvement of conditions in the Bechuanaland Protectorate and Swaziland than any of the other measures considered by the Conference. One might almost say of Bechuanaland that

ranching is the only economic development which is now above the horizon. While the Union can be of assistance to the Territories in the development of their resources, it is particularly in the development of the cattle industry that such assistance would be of vital concern to the peoples of Bechuanaland and Swaziland.

E. C. RICHARDS,
Chairman.

C. N. A. CLARKE.
C. L. BRUTON.
P. R. VILJOEN.
D. L. SMIT.
J. E. HOLLOWAY.
Members.

BECHUANALAND PROTECTORATE.

Parliamentary Grants in Aid received from the Imperial Treasury 1933–34—1938–39.

	£
1933-34	177,000
1934-35	98,000
1935-36	50,000
1936-37	60,000
1937-38	25,000
1938-39	*50,000
	£460,000

* Amount approved in estimates, of which probably only £30,000 will be required.

List of Schemes Financed by the Colonial Development Fund.

Scheme.	*Amount Approved.*	*Date Commenced.*	*Date Completed.*
	£ s. d.		
MEDICAL.			
Additions to Hospitals	3,770 0 0	April, 1932 ..	March, 1934.
Francistown Hospital	4,000 0 0	October, 1934 ..	July, 1935.
New Hospital, Maun	3,500 0 0	October, 1935 ..	February, 1937.
New Hospital, Tswapong	1,150 0 0	May, 1937 ..	March, 1938.
.. ..	350 0 0		
Water supply Tswapong Hospital	1,020 0 0	December, 1935..	June, 1938.
Fixed Dispensaries	9,125 0 0	In progress.	
AGRICULTURE AND VETERINARY.			
Tsetse Fly Investigation	2,265 6 3	August, 1930 ..	September, 1931.
Demonstration Creamery	200 0 0	April, 1932 ..	March, 1933.
Mutton Improvement	2,000 0 0	February, 1935 ..	In progress.
Cattle Improvement	7,000 0 0	June, 1935 ..	.. ..
Cattle Improvement (Additional)..	5,450 0 0	January, 1939 ..	.. ..
Pasture Research	4,750 0 0	April, 1935 ..	.. ..
Improving of methods of preparing Hides and Skins	2,000 0 0	December, 1935..	.. ..
Loan for Dairy Machinery	1,000 0 0	January, 1935 ..	Loan repaid September, 1938, to C.D.F.
Dairy Industry	500 0 0	July, 1935 ..	June, 1936.
Pork and Bacon Industry	694 0 0	July, 1935 ..	December, 1936.
Pig Breeding	564 0 0	December, 1938..	In progress.
Poultry Industry	1,083 0 0	June, 1935 ..	December, 1936.
Karakul Sheep	3,680 0 0	February, 1937 ..	In progress.
WATER DEVELOPMENT.			
Preparation of water schemes ..	894 11 11	August, 1930 ..	February, 1931.
Ngamiland Waterways	400 0 0	November, 1933	March, 1937.
Ngamiland Waterways	3,600 0 0	November, 1933	March, 1937.
Ngamiland Waterways	8,000 0 0	April, 1937 ..	July, 1938.
Water Development	25,300 0 0	August, 1935 ..	April, 1937.
Water Development	114,000 0 0	May, 1937 ..	In progress.
Ngamiland Waterways (Clearing of Tsoghe)	3,500 0 0	January, 1939 ..	.. ..
Carried forward	209,795 18 2		

List of Schemes Financed by the Colonial Development Fund—contd.

Scheme.	*Amount Approved.*	*Date Commenced.*	*Date Completed.*
	£ s. d.		
Carried forward	209,795 18 2		
COMMUNICATION.			
Walvis Bay Railway Survey ..	2,002 4 0	March, 1932 ..	September, 1932.
Low Level Bridges	12,750 0 0	August, 1935 ..	In progress.
Road Construction Machinery ..	690 0 0	August, 1935 ..	Completed.
Road Construction	58,000 0 0	May, 1937 ..	In progress.
MISCELLANEOUS.			
Economic Mission	1,640 0 0	October, 1932 ..	March, 1933.
Skin and Fur Industry	4,045 0 0	May, 1936 ..	March, 1937.
Survey of Timber Resources ..	2,331 0 0	October, 1936 ..	September, 1938.
	£291,254 2 2		

SWAZILAND.

Statement of Grants-in-Aid, 1928–1938.

	£		£
1928-29	32,500	1934-35	60,000
1929-30	32,000	1935-36	48,000
1931-32	22,000	1936-37	32,500
1932-33	27,900	1937-38	43,000
1933-34	28,500		
			£326,400

List of Schemes Supported by Colonial Development Fund. To 31st March, 1938.

Number.	*Particulars of Schemes.*	*Amount Sanctioned* £ s. d.	*Remarks.*
24	Roads, Bridges and Causeways ..	6,937 3 3	Completed.
25	Hlatikulu—Kubuta Telephone Line ..	1,030 16 10	"
26 and 27	Mbabane Hospital and Three V.D. Clinics	7,386 19 3	"
28	Tobacco Delegation to Union of South Africa	120 0 0	"
172	Construction of Concrete Dam	178 7 4	"
190	Financial Mission	1,058 0 0	"
191	Water Conservation	2,988 15 5	"
230	Bremersdorp Water Supply	8,931 10 11	"
231	Creamery	6,500 0 0	"
232	Construction of Three Medical Outposts	541 5 3	"
259	Usutu Bridge	6,874 16 8	"
260	Telephone Exchange	3,396 11 2	"
311	Cattle Improvement	6,760 0 0	In progress—to be spread over several years
312	Extension of Government Hospital, Hlatikulu	5,750 0 0	Completed.
369	Construction of Bridges	26,450 0 0	In progress.
405	Cattle Dipping Tanks	7,500 0 0	" "
456	Purchase of Road Making Plant ..	5,350 0 0	Completed.
468	Construction of Road Culverts ..	6,000 0 0	In progress.
472	Water Supplies	16,000 0 0	" "
473	Experimental Farm	9,500 0 0	£5,500 capital expenditure and recurrent expenditure £800 p.a. for five years.
494	Half cost Black Umbuluzi Bridge ..	600 0 0	In progress.
508	Goedgegun Water Supply	2,000 0 0	" "
509	Stegi Water Supply	1,150 0 0	" "
510	Forestry Survey	150 0 0	Completed.
		£133,174 6 1	

Working Copy.

Y. 6/332. No. 79. PROOF.

GENERAL HERTZOG (PRIME MINISTER FOR THE UNION OF SOUTH AFRICA)

to

SIR THOMAS INSKIP (SECRETARY OF STATE FOR DOMINION AFFAIRS).

(Confidential.) (Received 19th May, 1939.) [Answered by No. 80.]

DEAR SIR THOMAS INSKIP, Capetown, 9th May, 1939.

With reference to the discussions your predecessor and I have had with regard to the suggestion that the Governments of the United Kingdom and of the Union of South Africa should jointly publish a memorandum on the proposed transfer of the Native Protectorates, I enclose herewith a draft of the memorandum for your consideration. The earlier idea, as you may remember, was to draft different documents for publication to the Europeans and to the Natives in the Territories. On reconsideration, my colleagues and I suggest that one document on the lines of that enclosed, may best suit the purpose, and could then, with the necessary translations, be published for the information of all interested parties.

The document has been submitted to Sir William Clark, to whom I am sending a copy of this letter. I am likewise sending a copy of the letter and the document to Mr. te Water.

I shall be pleased to receive your comments.

Yours, &c.,

J. B. M. HERTZOG.

Enclosure in No. 79.

MEMORANDUM ON PROPOSED TRANSFER OF THE GOVERNMENT OF SWAZILAND, BECHUANALAND AND BASUTOLAND TO THE UNION OF SOUTH AFRICA.

(A) *European Population.*

If the Government of the Territories of Swaziland, Bechuanaland and Basutoland, or any of them, is transferred to the Union, their European inhabitants will enjoy all the rights and privileges and be subject to all the duties and obligations of the European inhabitants of the rest of the Union. These rights will include the right of Parliamentary franchise in accordance with the laws of the Union. The European owned portions of Swaziland and Bechuanaland will by transfer be placed on exactly the same footing as the European owned land in any other part of the Union.

(B) *Officials.*

Upon transfer the Government of the Union will take over the European and Native officials serving in the Territories in accordance with section 22 of the Schedule to the South Africa Act, 1909, which reads as follows:—

"22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force."

(C) *Native Population.*

Section 151 of the South Africa Act, 1909, provides that on transfer to the Union of the Government of any Territories belonging to or under the protection of His Majesty and inhabited wholly or in part by Natives, the Governor-General-in-Council may undertake the government of such Territory upon the terms and conditions embodied in the Schedule to the Act. A copy of the Schedule is annexed, marked X*.

Upon transfer, His Majesty's Government in the Union of South Africa would institute the system of government outlined in the Schedule to the South Africa Act, 1909, and no departure from the terms of the Schedule is contemplated by His Majesty's said Government.

If, however, at any time after transfer, any alteration in the terms of the Schedule should be contemplated by His Majesty's Government in the Union of South Africa in respect of the Territories referred to in the Schedule or of any of them, His Majesty's

* Not printed here.

S.A.H.C. Terr.—(C.35024/235). 24.

said Government undertake to consult with His Majesty's Government in the United Kingdom in case the latter should have any observations to offer and to give due consideration to such observations before making such alteration.

The powers and status of the Chiefs would continue unchanged, and the existing form of administration would substantially be maintained, except for minor necessary administrative adjustments.

Thus, while at present the legislative power is vested in the High Commissioner, it would, upon transfer, become vested in the Governor-General-in-Council.

At present the administration is exercised by resident commissioners under the direction of the High Commissioner. Upon transfer, the resident commissioners would be appointed by the Governor-General-in-Council and would exercise their administrative functions under the direction of the Prime Minister.

The Prime Minister would be advised on matters of administration and legislation by a Commission of not less than three members, the constitution and functions whereof are dealt with in sections 2–10 of the said Schedule.

It may be desirable to set out here certain advantages which the Natives of the Territories may be expected to gain as a result of transfer to the Union. Before doing so, however, it is perhaps not out of place to draw attention to the fact that in the economic sphere the Union and the Territories have an essential unity of interest. The Union is the natural, if not the only, market for the products of the Territories, and the Territories provide a market for the manufacturers of the Union. In the present state of international trade, the Territories would have great difficulty in finding remunerative markets elsewhere if the Union markets should be closed to them. This is particularly the case with cattle, the principal product of Bechuanaland and Swaziland, which have, in spite of the weight restrictions and the controlled market, obtained a remunerative outlet for large numbers of cattle in the Union.

The Union provides also a ready market for the surplus labour of the Territories. During the recent economic depression the Union Government found that while thousands of its own Natives were workless and in a state of semi-starvation, so much so that extensive relief had to be provided, a very large number of Natives from outside the Union were in various types of employment in the Union, particularly in the towns.

As the Union Government's first concern naturally is its own Natives, and as extra-Union Natives are continually entering the Union in large numbers without permission, a provision was included in Act No. 46 of 1937 making it an offence for any "foreign" Native to enter or for any European to employ such Native in any town within the Union without special permission from the Secretary for Native Affairs. This restriction does not, however, apply to the Natives of the Territories or of South West Africa, as the future of these areas has thus far been regarded as being more intimately associated with the Union.

For the same reason the Union's Immigration Laws, which make the entry of any person from outside the Union—be he European or Native—unlawful and the entrant subject to deportation, have not been applied to the Territories.

Transfer of the control of the Territories to the Union would naturally have the effect of securing to the inhabitants of the Territories for all time the right to be treated as rightful residents of the Union with the same claim as other Natives of the Union to its labour markets, while any questioning of the right of Territorial Natives to enter the Union for purposes of study, on visits or for any other legitimate reason would cease.

That this is an important question may be judged from the fact that, apart from the Natives on the mines, which in 1938 absorbed 70,511 labourers from the Territories, there are at present approximately 220,000 Natives within the Union who do not belong to it.

None of the Territories can in the long run survive as independent economic units. As has already been pointed out, they are in fact to-day living largely on the development which has taken place across their borders, and if they did not have the easy access to the Union which they now enjoy, their position would long ago have become impossible.

Already the question has arisen whether the position as it prevails at present can be maintained.

As the Territories produce largely for the Union market in competition with the citizens of the Union, it may, if the Territories are not transferred to the Union, become

merely a question of time whether it will be possible to resist the demand of Union producers for the raising of tariff barriers against the products of the Territories and for the complete prohibition of the entry of stock from the Territories.

Only the transfer of the Territories, therefore, could permanently ensure to the inhabitants of the latter that measure of equal treatment for their products which they at present share with citizens of the Union.

Upon transfer the Territories would become part and parcel of the Union as an economic unit. While the movement of livestock and agricultural produce would, of course, be subject to the veterinary and marketing laws of the Union, there would be no discrimination against the Territories, which would be in the favourable position of occupying their natural place in the economic structure of the Union.

For example, Bechuanaland, as a ranching area, would benefit by the free movement of feeder-cattle to the maize areas of the Union, and Basutoland would be in a position to further develop the production of hard wheats of which there is a scarcity in the Union.

Gradually, and as the process of economic and general adjustment takes place, the Territories will derive all the benefits which accrue to comparatively undeveloped countries as a result of their closer association with an advanced and progressive state. They would share in the organized activities of the Union, and in the benefits of its far higher stage of economic development. The financial and technical resources of the Union would be extended to their areas, and transport facilities would be increased in order to tap their resources and hasten their development.

Native agricultural schools have been established in the Union. They give instruction in agriculture to Native students, and train Native agricultural demonstrators to teach their people the advantages of improved methods of cultivation and animal husbandry. These facilities would become available to the inhabitants of the Territories.

The Union Government may state that in so far as its knowledge of present conditions enables it to formulate its policy towards the Natives in the event of transfer, its intention is that:—

(*a*) The tribal system and the authority of the Chiefs should be maintained; and the Chiefs should continue to receive the allowances hitherto paid to them by the Imperial Government.

(*b*) There should be no alienation of any land in Basutoland, nor of any land forming part of the Native reserves in the Bechuanaland Protectorate and Swaziland.

(*c*) No Natives should be introduced into Basutoland or the Native reserves of the Bechuanaland Protectorate or Swaziland for settlement without the consent of the inhabitants of the areas concerned.

(*d*) The existing educational, medical and other social services, and the schemes for veld reclamation, the combating of soil erosion, the development of agriculture, the improvement of stock, the provision of water supplies and the construction and maintenance of roads and bridges should be continued and extended as circumstances permit.

(*e*) The principles laid down in Proclamation No. 2 of 1915 (Swaziland), which makes provision for controlling the purchase by Natives of land in Swaziland and for securing for the benefit of the Swazis land acquired on behalf of the Swazi nation, should be maintained.

Y. 6/332. No. 80. PROOF.

SIR THOMAS INSKIP (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

GENERAL HERTZOG (PRIME MINISTER FOR UNION OF SOUTH AFRICA).

(Confidential.)

MY DEAR GENERAL HERTZOG, Downing Street, S.W.1, 24th May, 1939.

Many thanks for your letter of the 9th May* enclosing the memorandum prepared for issue by the Union Government, in pursuance of the joint statement† made by Mr. MacDonald and yourself of the 29th March of last year, on the question of the transfer to the Union of the government of the High Commission Territories. I will examine the memorandum as quickly as possible and if I have any comments I will ask Sir William Clark to discuss them with you. I think that this will be the most expeditious procedure.

Yours, &c.,

T. W. H. INSKIP.

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* No. ~~Y. 6/332.~~ 79.

† See No. 58.

Working Copy.

Y. 6/329. No. 81. PROOF.

98

SIR ERIC MACHTIG (DOMINIONS OFFICE)

to

SIR WILLIAM CLARK (HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND).

[transmitted by No. 82]

(Secret.)

Downing Street, S.W.1, 2nd June, 1939.

MY DEAR CLARK,

Many thanks for your letter of the 28th April* forwarding the revised draft of the Union memorandum regarding the question of the transfer of the government of the High Commission Territories to the Union. The Secretary of State has now received the memorandum from General Hertzog in a letter, of which, I understand, you have a copy, and I enclose a copy of the acknowledgment which has been sent to the General†.

The disappearance of the memorandum about Union Native policy removes, of course, one of the difficulties felt here; but though, as you say, the revised document is perhaps an improvement on former efforts, it still does not, in our view, remain a very imposing production. The responsibility for the substance of the memorandum must rest, however, with the Union Government.

There are certain points of wording in the new document on which we have some comments, *viz.*:—

(*a*) The heading of the memorandum, with its reference to "proposed transfer" is unsuitable: it would be preferable to substitute "Memorandum by His Majesty's Government in the Union of South Africa on the question of the transfer, etc.", and "Bechuanaland Protectorate" should be substituted for "Bechuanaland" here and elsewhere.

(*b*) Section (A), relating to the European population, contains some new wording, and it seems to us open to question how far it is safe to say that the European inhabitants of the Territories will "enjoy all the rights and privileges and be subject to all the duties and obligations of the European inhabitants of the rest of the Union". This would not normally be the case under the system of Government prescribed in the Schedule to the South Africa Act, which does not, of course, provide for the incorporation of the Territories in the Union, but simply for the transfer of their administration from the United Kingdom to the Union Government. We know, in fact, that the Europeans object to the Schedule system, on the ground that they will not secure under it what they regard as the benefits of incorporation.

(*c*) The paragraph on page 4 about the Union's Immigration Laws seems queerly worded: it can hardly be the case that the entry of *any* person from outside the Union is unlawful! We are not clear also whether it would be entirely correct to say that the Union Immigration Laws are not applied at all to the Territories. We understand that one of the Basuto grievances is the Union Government's practice of deporting to Basutoland natives alleged to be born there who have been convicted of some offence in the Union. It will be noted also that the following paragraph implies that there is some "questioning of the right" of Natives of the Territories to enter the Union even for "legitimate" reasons.

There are two further points which, though they do not involve anything new, require a little consideration.

(*d*) The statement in Section B in regard to officials is strictly in accordance, of course, with the Schedule to the South Africa Act. But you may remember that, in the course of a talk with you when you were here last year, the question was raised whether, although we have not in the past felt able to give any undertaking to officials outside the terms of section 22 of the Schedule, it would in fact be possible, in the event of transfer, to avoid offering serving officers the option of retirement on reasonable pensionable terms or, alternatively, in the case of officers who were members of the Colonial Administrative Service, transfer elsewhere (though, in practice, it would be difficult to transfer any large number of officers at one time). We do not suggest that any alteration need be made in the paragraph of the memorandum on this point, but you might consider whether it would be as well for you to explain to General Hertzog that, while we ourselves would certainly be anxious that transfer should not involve any considerable change in the personnel of officials serving in the Territories, we might have to consider the adoption of some arrangement on the lines indicated above.

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* No. ~~Y. 6/329.~~ 77. † No. ~~Y. 6/329.~~ 80.

S.A.H.C. Terr.—(C.35024/234). 24.

(*e*) The paragraph on page 5 which begins " As the Territories produce largely " and ends with the words " complete prohibition of the entry of stock from the Territories " seems to assume a greater prominence now that the memorandum has been shortened, and we cannot help thinking that the threat conveyed in it, and the reference to the (possible) inability of the Union Government to resist pressure to this end, will create rather an unfortunate impression in political circles here, and may lead to rather pointed questions as to what our attitude would be in such circumstances. We doubt also whether it will really have any influence on native opinion since, whatever the Union Government do, the natives will certainly look to the United Kingdom Government to help them out of their difficulties. It seems to us that the point in question is sufficiently made in the previous and following paragraphs, but if you do not feel it possible at this date to suggest to General Hertzog that the paragraph in question should be omitted, you might perhaps consider whether you could indicate that, from the point of view of public opinion here, we feel it would be unfortunate to make this rather blunt threat of complete prohibition of the entry of stock from the Territories, and that possibly the paragraph might be phrased rather differently.

There is one point which arises on the wording of the General's letter to the Secretary of State of the 9th May. You will notice that he refers to the memorandum as one to be published jointly by the Governments of the United Kingdom and the Union of South Africa. This wording (which, as you will notice, has *not* been repeated in the Secretary of State's reply to General Hertzog) suggests that it would be desirable that you should impress on the General in suitable terms that we do not, of course, regard the memorandum itself as in any way a joint one. It was made clear in a statement of the 29th March of last year that the memorandum was to be one prepared by the Union Government, and we have, of course, only come into the matter to the extent that we wish to ensure that the memorandum was one which we could suitably undertake to place before the native authorities in the Territories. This point is of real importance, as we must, of course, be free to disclaim responsibility on our part for the contents of the memorandum when we are questioned on this point after the issue of the memorandum. As regards the arrangements for publication of the memorandum, the procedure contemplated is set out in my letter to Huggard of the 8th August last, and you will no doubt consider whether, in speaking to General Hertzog, you should now show him the draft instructions which it is proposed to convey to the Resident Commissioners. It is hardly a case of " joint publication " by the two Governments, though this is perhaps a matter of language only.

The Duke of Devonshire saw the draft Union memorandum just before he sailed, and I promised that I would ask you to let him have a copy of the letter which I sent to you on the subject. I enclose an extra copy for this purpose.

Yours, &c.,

ERIC MACHTIG.

P.S.—I have signed this for E.J. as he is away for a few days. The Secretary of State has personally approved the draft.

(Initd.) E. G. M.

Working Copy.

Y. 6/336. No. 82. PROOF.

SIR WILLIAM CLARK (HIGH COMMISSIONER IN THE UNION OF SOUTH AFRICA FOR HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM)

to

SIR ERIC MACHTIG (DOMINIONS OFFICE).

(Received 26th June, 1939.)

(Secret.)

MY DEAR MACHTIG, Cape Town, 16th June, 1939.

I duly received your letter of the 2nd June* containing the Secretary of State's comments on the Union memorandum on the question of transfer, and on General Hertzog's covering letter.

I have now seen the General and put to him the points raised in your letter. I had previously prepared an *aide-mémoire* which I took with me. I felt that the point under (*e*) in your letter was a particularly delicate one, and it seemed prudent not to include it in the *aide-mémoire*, but to raise it in conversation and see what the Prime Minister's reactions to it would be.

Actually our conversation followed on a most amiable course. I took the line that the Secretary of State in raising these points was only actuated by a desire to help and to remove ambiguities, and General Hertzog entirely accepted this point of view.

Turning to your points, I do not think there will be any difficulty about the proposed modifications in the heading of the memorandum.

As regards Section (A) relating to the European population, General Hertzog expounded his views at some length. It is the kind of juridical problem which appeals to him, but he seemed to me to be barking up the entirely wrong tree. He had got it into his head that the whole schedule system was intended for the natives only, and had merely been extended to cover the Europeans because the Bechuanaland Protectorate and Swaziland are remote from the United Kingdom, and therefore their white populations must be placed under the local administration. If, he argued, they had happened to be contiguous as they are with the Union, the white population would probably have been dealt with as ordinary citizens of the United Kingdom. I said that naturally we had established in the Territories the same sort of Government as in our Crown Colonies, where white and black were equally under the authority of the Governor as representing the Secretary of State for the Colonies and the Crown. As for the rest, the dominating factor was the provision in the Schedule, which clearly laid down in Section 1 that the Governor General in Council (and not the Union Parliament) would be the legislative authority for the Territories after transfer, and that legislation for them would be by Proclamation. It seemed evident that the Schedule did not contemplate any distinctions between the white and native areas. I repeated that all we had in mind was to warn him about the possible dangers of committing himself too definitely to a proposition which seemed to imply that the rights and privileges of the European inhabitants of the Union would accrue automatically to the European inhabitants of the Territory. The Prime Minister saw this point, and said he would have to look into it in the light of what I had said, and of the relevant paragraph in the *aide-mémoire*.

After I had mentioned the other points in the *aide-mémoire* I came to the more delicate question of the third paragraph on page 5 of the memorandum to which you referred in heading E of your letter. I read the three paragraphs to General Hertzog, pointing out that the last one did seem to assume a somewhat minatory character which might provoke unfavourable comment. I made it very clear that the Secretary of State realized that this was a matter entirely for his own judgment, but that he might think it desirable to reconsider it. The Prime Minister was very amiable on the subject, and said he would be glad to think it over. He was summoned to the House at that moment, so I suggested to him that I should mention it in a covering letter enclosing the *aide-mémoire*, and he agreed to this course. I enclose herewith copies of the letter and of the *aide-mémoire*.

I felt on the whole that it would be better not at this stage to produce the draft letter of instructions to the Resident Commissioners. I told the Prime Minister that we proposed to issue instructions, which I should like to show to him before they were sent out, and he agreed to this procedure. He leaves for Pretoria to-morrow night, so that in any case immediate action is not possible, nor do we want to hurry things up too much.

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* No. ~~Y. 6/329~~. 81.

It would be best I think that there should be a certain interval between the Duke of Devonshire's departure and the issue of the memorandum, so as to show that there is no connexion between its issue and his visit.

Yours, &c.,

W. H. CLARK.

Enclosure 1 in No. 82

(Confidential.)

Cape Town, 16th June, 1939.

MY DEAR PRIME MINISTER,

With reference to our conversation this morning about the Union Memorandum on the question of transfer of the High Commission Territories, I now enclose an *aide-mémoire* of the points which the Secretary of State for Dominion Affairs wished me to bring to your notice.

Sir Thomas Inskip also thought that you might care to consider the wording of the third paragraph on page 5 of the Memorandum, which reads as follows:—

> " As the Territories produce largely for the Union market in competition with the citizens of the Union, it may, if the Territories are not transferred to the Union, become merely a question of time whether it will be possible to resist the demand of Union producers for the raising of tariff barriers against the products of the Territories and for the complete prohibition of the entry of stock from the Territories ".

It seems to him that this paragraph might appear somewhat minatory and, as such, might provoke unfavourable comment. The point has already been made in the two preceding paragraphs, and you may think it desirable either to omit the paragraph or to have its wording somewhat modified. The omission, for example, of the words " and for the complete prohibition of the entry of stock from the Territories " at the end of the paragraph, would make it sound less threatening; and possibly also the omission (although this is a small point) of the word " merely " before the words " a question of time " would be an improvement.

Yours, &c.,

W. H. CLARK.

General The Honourable
J. B. M. Hertzog, M.P.

Enclosure 2 in No. 82

AIDE MEMOIRE ON CERTAIN POINTS TO WHICH THE SECRETARY OF STATE FOR DOMINION AFFAIRS WISHES TO CALL ATTENTION IN THE MEMORANDUM BY THE UNION GOVERNMENT DEALING WITH TRANSFER OF THE ADMINISTRATION OF THE HIGH COMMISSION TERRITORIES.

1. *The Title of the Memorandum.*

It would seem desirable that the title should make it clear that His Majesty's Government in the Union of South Africa are responsible for the Memorandum, and also that there should be no risk of a possible misunderstanding through the use of the phrase " proposed transfer ". The Secretary of State for Dominion Affairs therefore suggests that the title might read " Memorandum by His Majesty's Government in the Union of South Africa on the question of the transfer of the Governments of Basutoland, the Bechuanaland Protectorate, and Swaziland to the Union of South Africa ".

2. As a matter of terminology, the words " Bechuanaland Protectorate " should be substituted for " Bechuanaland " throughout the Memorandum. It may also be pointed out that, when the three High Commission Territories are mentioned together, the order usually followed is " Basutoland, the Bechuanaland Protectorate and Swaziland ".

3. *Section A—European Population.*

The Secretary of State for Dominion Affairs is inclined to think that the wording of this section may give rise to certain difficulties in future. It will be remembered that the Schedule to the South Africa Act does not provide for the incorporation of the Territories in the Union, but only for the transfer of their administration from the Government of the United Kingdom to the Union Government. In these circumstances it might be prudent to qualify to some extent the statement that the European

inhabitants of the Territories will on transfer " enjoy all the rights and privileges and be subject to all the duties and obligations of the European inhabitants of the rest of the Union ". It might be safer to say that provision will be made by legislation to secure this end, so far as may be practicable. This would also apply as regards the right to parliamentary franchise, which might require legislation by Proclamation in the Territories as well as legislation by Parliament in the Union.

4. *Section B—Officials.*

The Secretary of State welcomes the statement made by the Government of the Union under this head. It is possible, however, that some officers now in the service of the United Kingdom might not wish to be transferred to the service of the Union, and that it might be necessary for His Majesty's Government in the United Kingdom to give such officers the option of retirement or of being transferred to other posts in the Colonial Service. His Majesty's Government in the United Kingdom would certainly be anxious that transfer should not involve any considerable change in the personnel of officers serving in the Territories, but the Secretary of State has thought it right to inform His Majesty's Government in the Union at this stage that the possibility may arise. He does not suggest that any amendment in the wording of this section is required.

5. *Section C—Native Population.*

The Secretary of State is not quite clear as to the intention of the second paragraph on page four which reads—" For the same reason the Union's Immigration Laws, which make the entry of any person from outside the Union—be he European or native—unlawful and the entrant subject to deportation, have not been applied to the Territories ". He is in some doubt about the use of the term " unlawful " in relation to the entry of *any* person from outside the Union, since, so far as he is aware, the entry of British subjects into the Union is not contrary to the law. Possibly His Majesty's Government in the Union had in mind the various restrictions on immigration, but it would seem desirable that the paragraph should be clarified.

6. In addition to these points in the Memorandum, Sir Thomas Inskip would also wish to call attention to a phrase used in General Hertzog's letter to him of the 9th May, in which he refers to " the suggestion that the Governments of the United Kingdom and of the Union of South Africa should jointly publish a memorandum " in connexion with the transfer of the High Commission Territories. He feels sure that His Majesty's Government in the Union will agree as to the desirability, already referred to in paragraph 1 above, of making it clear that the Memorandum is not a joint one, but has been prepared and issued solely by His Majesty's Government in the Union. This, it will be remembered, was announced in the final paragraph of the Joint Statement issued by General Hertzog and the Secretary of State for Dominion Affairs on the 29th March, 1938.

As regards publication, it is suggested that the Memorandum should be published by the Union Government in the Union on a date to be arranged and, if agreeable to His Majesty's Government in the Union, the High Commissioner would issue instructions to the Resident Commissioners in the Territories for the presentation of the Memorandum in the relevant vernacular to the native authorities in each Territory, either on the same day or, if it were thought desirable, two or three days in advance for the confidential information of selected Chiefs.

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P.Q.Y. 6/48. No. 83. PROOF.

HOUSE OF COMMONS.

EXTRACT FROM OFFICIAL REPORT, 4TH JULY, 1939.

South Africa (High Commission Territories).

24. LIEUT.-COMMANDER FLETCHER asked the Secretary of State for Dominion Affairs what is the present position of the negotiations with the Government of the Union of South Africa concerning the transference of the South African Protectorates?

25. MR. SORENSEN asked the Secretary of State for Dominion Affairs whether he is aware that British-African subjects in Africa and Great Britain view with apprehension the transference of Basutoland, Swaziland, and Bechuanaland to the Union of South Africa; if discussions between the British Government and the South African Government on this matter will be completed before the Summer Recess; when a report is likely to be issued; and whether the wishes and interests of the natives likely to be affected will have prior claim to that of the European settlers or the Union Government?

26. MR. CREECH JONES asked the Secretary of State for Dominion Affairs whether any recent discussions of an official or unofficial nature have taken place with the Government of the Union of South Africa, on the subject of the transfer of any or all of the High Commission territories?

27. MR. PALING asked the Secretary of State for Dominion Affairs the nature of the agreement arrived at between the British Government and the Union of South Africa on the question of the South African Protectorates; and has the consent of the native inhabitants of the Protectorates been obtained to the agreement?

SIR T. INSKIP: It was explained in the joint statement which my right hon. Friend the Secretary of State for the Colonies and General Hertzog made on 29th March last year that it was proposed that His Majesty's Government in the Union of South Africa should issue a memorandum setting forth the terms on which they would propose that the transfer of the government of the High Commission Territories to the Union would take place, if decided upon. I have recently received from the Union Government the draft of the memorandum which they have prepared, but I cannot yet give the date on which the memorandum will be published by the Union Government.

As was indicated in the joint statement to which I have referred, the object of the issue of the memorandum is to enable the inhabitants of the Territories to judge what the position would be in the event of transfer. It has been made clear on several occasions that His Majesty's Government in the United Kingdom would not make any decision in regard to the transfer of the government of the Territories until the inhabitants, native as well as European, have been consulted and that no final conclusion would be reached until Parliament has had an opportunity of expressing its views. There is no question of varying this pledge.

LIEUT.-COMMANDER FLETCHER: Is the right hon Gentleman aware that assurances have been given not only to the natives of these Protectorates that they shall be consulted, but that their consent must be obtained before transfer takes place? May I ask that he will give the further assurance that this House will be consulted before any such transfer is made?

SIR T. INSKIP: I have already said that in my answer.

MR. POOLE: May I ask in what way the right hon. Gentleman proposes to consult the natives? Does he propose to consult the natives or the native chiefs?

SIR T. INSKIP: Consultations will take place with those whom His Majesty's Government consider are the best qualified to express an opinion.

MR. CREECH JONES: Will the acquiescence of the natives be obtained before transfer is effected? Are we to understand that in the near future further unofficial discussions will take place with the Union Government on this matter?

SIR T. INSKIP: I am not able to say when further discussions will take place with the natives or with their representatives, but I can assure the hon. Member that the fullest consideration will be given to the wishes and interests of the native population.

S.A.H.C. Territory—(C.35408/242). 24.

Working Copy.

Y. 6/342. No. 84. ~~PROOF.~~

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 5.45 p.m., 18th July, 1939.)

(Paraphrase.) [Enclosed by No. 85]

No. 72. 18th July. Confidential. Following message for Sir E. Machtig:—

Begins.—Submission of the Union memorandum to Basutos. I have been in communication with Richards especially in connexion with debate in Basutoland Council last November (reference my despatch No. 340 of the 7th June*) in course of which Richards had himself suggested that the Council should meet again when the memorandum had been published to discuss the Union's terms. Although I felt some doubts about the advisability of this procedure on further consideration and having regard to argument which Richards has put forward I think that suggestion should be approved. Union representatives would be invited to attend and it would be made clear that the object of the meeting was to afford the opportunity for the clarification on such points as might be raised. Richards is confident that he could prevent any dangerous approximation to " consultation " stage.

In the first place Richards would have handed memorandum to the Paramount Chief and have suggested to him that each Member of the Basutoland Council should be sent a copy.

It will be appreciated that owing to the appointment of Joint Advisory Conference which, despite all explanations, the natives continue to regard as a step portending our gradual surrender to transfer; owing to the imminence of the appearance of the Union Memorandum; and to frequent reports in the Press that important progress is shortly to be made towards transfer native feeling is excited and their confidence in us is to some extent shaken. Therefore I find myself in agreement with Richards that if we go too far in stifling discussion on the memorandum they will come to the most undesirable conclusion that we are already secretly committed to transfer. At the same time of course every precaution will have to be taken in order to avoid precipitating " consultation " stage but I think that Richards will be able to keep that under control.

The question arises in view of these considerations whether the first two sentences of paragraph 4 of the Draft Instructions to the Resident Commissioners (reference Harding's secret letter to Huggard No. 938 of the 8th August†) do not go too far. They are apt rather to imply a complete muzzle of the Paramount Chief and Chiefs, etc. Would it not be sufficient to say:—*begins.*—" You should further make it clear to the Paramount Chief that the memorandum has been prepared by the Union Government for the information of the Chiefs and the people of the territories, but that he is not now being invited to express an opinion on the subject."—*ends.* There is no great difference in the meaning only a certain difference in the accent which would be enhanced if, as I recommend, the Resident Commissioners were also authorized to suggest consideration of the memorandum by the Basutoland Council.

The correspondence between Richards and myself will be forwarded by next mail.—*Ends.*

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* Y. 153/9: not printed.

† No. ~~Y. 6/208.~~ 74.

S.A.H.C. Territory—(C.35408/243). 24.

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Y. 6/342. No. 85. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 6 p.m., 24th July, 1939.)

(Paraphrase.) [transmitted by No. 86.]

No. 73. Confidential. With reference to your telegram No. 72 18th July*. Following message from Sir E. Machtig:—

Begins.—We agree as regards proposed discussion in Basutoland Council subject to precautions referred to in your telegram.

Regarding the proposed amendment of draft instructions to Resident Commissioners, however, we are in some doubt as to advisability of use of word " now " as implying that opinion likely to be asked for in near future. Perhaps it would be preferable to substitute in your revise, after " but " following words:—*begins.*—" its communication to him does not mean that he is being invited, etc."—*ends.*

With regard to question of inviting Union representatives to attend meeting of Basutoland Council in order to discuss the Union memorandum, we presume that no decision is needed at present, and that you would not wish to go further than what is said in paragraph (*b*) of Harding's letter to Huggard of 8th August, 1938† for purposes of any immediate talk with General Hertzog.—*Ends.*

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* No. ~~Y. 6/342~~. 84.

† No. ~~Y. 6/269~~. 74.

S.A.H.C. Territory—(C.35408/244). 24.

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Y. 6/344.

No. 86.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND,
BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.39 p.m., 27th July, 1939.)

(Paraphrase.)

No. 82. 27th July. With reference to my telegram No. 75 of 21st July*. Following message for Sir E. Machtig:—

Begins.—I had a talk with Fagan yesterday morning. He is definitely going to recommend publication of Joint Advisory Conferences Report to the Prime Minister. He showed me also amendments in the Union memorandum which he proposes to recommend in view of the Secretary of State's comments. They will be telegraphed to you before the text is finally settled, they seem to me satisfactory.

Even assuming that the Prime Minister is in agreement with the foregoing, for reasons given in telegram under reference, there will still be some delay before the Report of Joint Advisory Conference is issued. Therefore there is practically no prospect of the publication of Union memorandum before I leave.

Your telegram No. 73†, instructions for the Resident Commissioners, I agree as to alterations suggested in the amendment which I had proposed.—*Ends.*

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* Y. 6/343: not printed.

† No. ~~Y. 6/342~~ 85.

S.A.H.C. Terr.—(C.38865/245). 24.

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Y. 6/1/84. No. 87. PROOF.

THE ANTI-SLAVERY AND ABORIGINES PROTECTION SOCIETY

to

DOMINIONS OFFICE.

[*Answered by No.* ~~84~~ 88.]

Denison House, S.W.1, 4th August, 1939.

SIR,

My Committee has had its attention drawn by several correspondents to questions and answers in the House of Commons concerning the High Commission territories of South Africa, and particularly to the statement made to Members of the House of Lords on the 9th June, 1937 by the Marquess of Dufferin and Ava on behalf of the Government.

This was understood to be a considered statement of Government policy, and the particular passage concerning the " full acquiescence " of the inhabitants was carefully read out to Noble Lords, several of whom were aware of the fact that when this was done the Prime Minister of South Africa was in the Chamber. Before this Society reprinted the speech of the Marquess of Dufferin and Ava in pamphlet form, a proof was submitted to and confirmed by him.

My Committee has observed that the replies given to Members of the House of Commons usually refer to Command Paper 4948, issued in July 1935, whereas the statement of Government policy to which we have referred was made nearly two years later.

In reply to certain correspondents the Society has expressed the view that it appears inconceivable that His Majesty's Government propose to reverse a statement so carefully made, and one which, as is common knowledge, has had a profound effect on the minds of the peoples of Swaziland, Basutoland and Bechuanaland. Nor are the natives of these territories alone in believing that their " full acquiescence " is a condition of transfer; the view is both widely and authoritatively held in this country, and was, indeed, most clearly expressed by Lord Lugard in the debate in the House of Lords on the 31st ultimo, when he said:—

> " . . . . .there is no need to remind your Lordships that in the case of the three South African Protectorates His Majesty's Government have made it fully clear that they cannot divest themselves of their trust, or pass it on even to a Dominion, against the will of the inhabitants and unless they are assured that it is for their real welfare."

The members of the Committee trust that they have correctly interpreted the views of His Majesty's Government and that the omission of any reference to the " full acquiescence " statement does not imply any " whittling down " of policy.

I have, &c.,

JOHN HARRIS,

Secretary.

S.A.H.C. Terr.—(C.35932/246). 24.

Working Copy

Y. 6/1/84. No. 88. PROOF.

DOMINIONS OFFICE

to

THE ANTI-SLAVERY AND ABORIGINES' PROTECTION SOCIETY.

Downing Street, S.W.1., 1st September, 1939.

SIR,

I am directed by Secretary Sir Thomas Inskip to acknowledge the receipt of your letter of the 4th August* regarding certain questions and answers in the House of Commons recently concerning the High Commission Territories in South Africa.

2. In the passage of the speech of the Marquess of Dufferin and Ava in the House of Lords on the 9th June, 1937, (reprinted on pages 125 and 126 of the Anti-Slavery Reporter and Aborigines' Friend Series V, Vol. 27, No. 2 of July, 1937), to which your letter relates, Lord Dufferin was referring to the *aide-mémoire* handed to General Hertzog in May, 1935. This is printed in Cmd. 4948†, a copy of which is enclosed for convenience of reference. It will be seen that paragraph 4 of the *aide-mémoire* expressed the view that the policy of the United Kingdom and Union Governments during the next few years should be directed to bringing about a situation in which, if transfer were to become a matter of practical politics, it could be effected with the full acquiescence of the populations concerned, and proposed the closest possible co-operation between the Union Government and the Administrations of the Territories with that object in view. As regards the pledges given by His Majesty's Government in the United Kingdom to the inhabitants of the Territories, these are set out at I of the Appendix to Cmd. Paper 4948. In this connexion I am to invite attention to Mr. MacDonald's speech in the House of Commons on the 29th July, 1937, in the course of which he said:

> " I was pressed the other day, at question time, and one or two Honourable Members have tried to press me again to-day, to interpret what is meant by the phrase ' consulting the local populations, European and natives '. I was pressed that I should state that that pledge meant that transfer could not take place unless the native populations consented to it. It would be improper for me to endeavour to use language regarding that pledge which would either contract the pledge or expand it. I do not think that the House need feel in the least dissatisfied with the position as it is left by these pledges ".

Mr. MacDonald also said in the House of Commons on the 13th July, 1937:—

> " If the Honourable and Gallant Member will study the records of the discussion in the House of Lords I think he will find that there is no discrepancy between what was said in that place and what was said here. His Majesty's Government stand by the pledges regarding consultation which have often been repeated in this House ".

It was in these circumstances that the present Secretary of State stated in the House of Commons on the 11th July last that the position of His Majesty's Government in the United Kingdom in this matter was set out in detail in Cmd. 4948, and that he had nothing to add to it.

I am, &c.,

H. N. TAIT.

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* No. ~~Y6/1/84~~. 17.

† Not printed here.

S.A.H.C. Terr.—(C.35932/247). 24.

Y. 6/348

No. 89.

DESPATCH

from

HIGH COMMISSIONER IN THE UNION OF SOUTH AFRICA FOR HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM.

(Received 8th September, 1939.)

(No. 2239. Secret.)

MY DEAR HARDING, Pretoria, 30th August, 1939.

Would you please refer to the Secretary of State's secret letter to me of the 5th July* regarding the draft Union memorandum on the question of the transfer of the government of the High Commission Territories to the Union?

I now enclose, for consideration, a copy of a letter from General Hertzog of the 26th August, enclosing a copy of a revised draft memorandum which incorporates the suggestions made in your secret letter to me of the 2nd June†. I have sent a formal acknowledgment to the Prime Minister, copy of which I also enclose, informing him that I am sending a copy of the documents to the Secretary of State and promising a further communication regarding suggested dates of publication.

I have no comments on the revised draft which seems to me to meet satisfactorily the points you mentioned. You will notice that General Hertzog also expresses his concurrence with your suggestions contained in paragraphs 4 and 6 of the *aide mémoire* sent to him with my letter of the 16th June‡. As regards the former paragraph, I think that a statement on the position of officials of the Territories in the event of transfer might stand over until the question is raised locally. Perhaps you would let us know by telegram whether the Secretary of State approves the memorandum in its present form.

As regards the question of the date of publication of the two documents (i.e., the report of the Joint Advisory Conference on Co-operation and the Union memorandum on transfer) you will observe that General Hertzog now assumes that the former also will be translated into the relevant native vernaculars before publication. I see no reason to object to this proposal, and am therefore requesting the Resident Commissioners to put the translation in hand and to indicate the time that translation will take. I am also asking them to have the Union memorandum translated in the form in which it now stands.

Apart from these points of detail, I see no utility in further delaying the publication of these documents beyond the time when the translations will be completed. There remains, however, the question of publication in the United Kingdom. I understand from Machtig's letter of the 13th June§ that it is not proposed to have the report of the Joint Advisory Conference separately printed and issued in the United Kingdom, but presumably you would wish the date of publication in South Africa to be so arranged that copies of the South African issue would be available in London before the report appeared here. Do you propose to adopt the same course for the Union memorandum?

As soon as the Resident Commissioners' replies have been received, I will communicate with you further as to the date for the publication of the Conference Report, and, when that is settled, we might perhaps suggest, if the Secretary of State agrees, that the Union memorandum might be published about three weeks later.

These arrangements would, I anticipate, result in the publication of the Conference Report towards the end of October. Having regard to the terms of the letters of instructions to the Resident Commissioners when handing the Union memorandum to the chiefs, and in view of the talks which the Duke of Devonshire and I had with the Bechuana Chiefs, and which I have since had with Sobhuza, I do not imagine that there should be reactions in the Territories which could not be met by reference to the pledges contained in these instructions.

In the event of the outbreak of war, the two Governments will probably agree that the publication of the Union memorandum should be postponed, as it is clearly undesirable in such circumstances to raise controversial questions. The report of the Joint Advisory Conference stands on a different footing and I should think might as well be published in any case.

The only other outstanding point is to obtain General Hertzog's concurrence in the letter of instructions to the Resident Commissioners. This, I think, might suitably be done at the time when suggestions are made to him for dates of publication of the two documents.

Yours, &c.,

W. H. CLARK.

Enclosure 1 in No. 89.

(Confidential.)

MY DEAR SIR WILLIAM, Prime Minister's Office, Pretoria, 26th August, 1939.

With reference to your letter of the 16th June last, regarding the memorandum by the Union Government on the question of the transfer of the Governments of the High Commission Territories to the Union, I am now in a position to inform you that the points raised therein and in the *aide-mémoire* which accompanied it have been duly considered.

A new draft of the memorandum, which incorporates all the suggestions made in your letter and the *aide-mémoire*, is enclosed, and I trust that it will now meet with the approval of yourself and of the Secretary of State for Dominion Affairs.

I have noted the contents of paragraphs 4 and 6 of the *aide-mémoire* and wish to express my concurrence with the suggestions contained in the latter.

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* Y. 6/336: not printed. † No. ~~Y. 6/339~~. 91. ‡ No. ~~Y. 6/336~~. 82. § P.Q. Y. 6/46: not printed.

I also agree to the suggestion put forward at recent conversations between you and the Minister of Native Affairs that the report recently submitted to us by the Joint Advisory Conference on Co-operation should first be published and that this should be followed by the publication of the memorandum.

It is proposed, therefore, that the report should be published shortly and that publication of the memorandum should take place a few weeks later on a date to be arranged between us.

Before taking any steps to this end I should be glad to learn whether you have any suggestions to offer regarding the dates of publication.

As regards the concluding sentence of paragraph 6 of the *aide-mémoire*, I presume that you will now take steps to have both the report of the Joint Advisory Conference and the memorandum translated into the relevant vernacular, so that they may be made available to the Chiefs in question either on, or, should you deem it desirable, two or three days in advance of the dates agreed upon for publication.

Yours, &c.,

J. B. M. HERTZOG.

Sir William H. Clark, G.C.M.G., K.C.S.I.

MEMORANDUM BY HIS MAJESTY'S GOVERNMENT IN THE UNION OF SOUTH AFRICA ON THE QUESTION OF THE TRANSFER OF THE GOVERNMENTS OF BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND TO THE UNION OF SOUTH AFRICA.

(A) EUROPEAN POPULATION.

The Union Government believes that the European inhabitants of the Territories of Basutoland, the Bechuanaland Protectorate and Swaziland desire, in the event of the transfer of the Governments of these Territories, or any of them, to enjoy all the rights and privileges and be subject to all the duties and obligations of the European inhabitants of the rest of the Union. These rights should include the right of Parliamentary franchise in accordance with the laws of the Union, and the European owned portions of the Bechuanaland Protectorate and Swaziland should by transfer be placed on exactly the same footing as the European owned land in any other part of the Union. The Government of the Union is willing to adopt such legislative and other measures as may be practicable for the purpose of giving effect to this desire.

(B) OFFICIALS.

Upon transfer the Government of the Union will take over the European and Native officials serving in the Territories in accordance with section 22 of the Schedule to the South Africa Act, 1909, which reads as follows:—

"22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force."

(C) NATIVE POPULATION.

Section 151 of the South Africa Act, 1909, provides that no transfer to the Union of the Government of any Territories belonging to or under the protection of His Majesty and inhabited wholly or in part by Natives, the Governor-General-in-Council may undertake the government of such Territory upon the terms and conditions embodied in the Schedule to the Act. A copy of the Schedule is annexed, marked X.

Upon transfer, His Majesty's Government in the Union of South Africa would institute the system of government outlined in the Schedule to the South Africa Act, 1909, and no departure from the terms of the Schedule is contemplated by His Majesty's said government.

If, however, at any time after transfer, any alteration in the terms of the Schedule should be contemplated by His Majesty's Government in the Union of South Africa in respect of the Territories referred to in the Schedule or of any of them, His Majesty's said Government undertake to consult with His Majesty's Government in the United Kingdom in case the latter should have any observations to offer and to give due consideration to such observations before making such alteration.

The powers and status of the Chiefs would continue unchanged, and the existing form of administration would substantially be maintained, except for minor necessary administrative adjustments.

Thus, while at present the legislative power is vested in the High Commissioner, it would, upon transfer, become vested in the Governor-General-in-Council.

At present the administration is exercised by resident commissioners under the direction of the High Commissioner. Upon transfer, the resident commissioners would be appointed by the Governor-General-in-Council and would exercise their administrative functions under the direction of the Prime Minister.

The Prime Minister would be advised on matters of administration and legislation by a Commission of not less than three members, the constitution and functions whereof are dealt with in sections 2–10 of the said Schedule.

It may be desirable to set out here certain advantages which the Natives of the Territories may be expected to gain as a result of transfer to the Union. Before doing so, however, it is perhaps not out of place to draw attention to the fact that in the economic sphere the Union and the Territories have an essential unity of interest. The Union is the natural, if not the only, market for the products of the Territories, and the Territories provide a market for the manufacturers of the Union. In the present state of international trade, the Territories would have great difficulty in finding remunerative markets elsewhere if the Union markets should be closed to them. This is particularly the case with cattle, the principal product of the Bechuanaland Protectorate and Swaziland, which have, in spite of the weight restrictions and the controlled market, obtained a remunerative outlet for large numbers of cattle in the Union.

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The Union provides also a ready market for the surplus labour of the Territories. During the recent economic depression the Union Government found that while thousands of its own Natives were workless and in a state of semi-starvation, so much so that extensive relief had to be provided, a very large number of Natives from outside the Union were in various types of employment in the Union, particularly in the towns.

As the Union Government's first concern naturally is its own Natives, and as extra-Union Natives are continually entering the Union in large numbers without permission, a provision was included in Act No. 46 of 1937 making it an offence for any "foreign" Native to enter or for any European to employ such Native in any town within the Union without special permission from the Secretary for Native Affairs. This restriction does not, however, apply to the Natives of the Territories or of South-West Africa, as the future of these areas has thus far been regarded as being more intimately associated with the Union. For the same reason the restrictions imposed by the Union's Immigration Laws upon the entry of any person from outside the Union, be he European or Native, have not been applied to the Territories.

Transfer of the control of the Territories to the Union would naturally have the effect of securing to the inhabitants of the Territories for all time the right to be treated as rightful residents of the Union with the same claim as other Natives of the Union to its labour markets, while any questioning of the right of Territorial Natives to enter the Union for purposes of study, on visits or for any other legitimate reason would cease.

That this is an important question may be judged from the fact that, apart from the Natives on the mines, which in 1938 absorbed 70,511 labourers from the Territories, there are at present approximately 220,000 Natives within the Union who do not belong to it.

None of the Territories can in the long run survive as independent economic units. As has already been pointed out, they are in fact to-day living largely on the development which has taken place across their borders, and if they did not have the easy access to the Union which they now enjoy, their position would long ago have become impossible.

Already the question has arisen whether the position as it prevails at present can be maintained. The fact that the Territories produce largely for the Union market in competition with the citizens of the Union gives rise from time to time to a demand on the part of Union producers for the raising of tariff barriers against the products of the Territories. Only the transfer of the Territories could permanently ensure to the inhabitants that measure of equal treatment for their products which they at present share with citizens of the Union.

Upon transfer the Territories would become part and parcel of the Union as an economic unit. While the movement of livestock and agricultural produce would, of course, be subject to the veterinary and marketing laws of the Union, there would be no discrimination against the Territories, which would be in the favourable position of occupying their natural place in the economic structure of the Union.

For example, the Bechuanaland Protectorate, as a ranching area, would benefit by the free movement of feeder-cattle to the maize areas of the Union, and Basutoland would be in a position to further develop the production of hard wheats of which there is a scarcity in the Union.

Gradually, and as the process of economic and general adjustment takes place, the Territories will derive all the benefits which accrue to comparatively undeveloped countries as a result of their closer association with an advanced and progressive state. They would share in the organised activities of the Union, and in the benefits of its far higher stage of economic development. The financial and technical resources of the Union would be extended to their areas, and transport facilities would be increased in order to tap their resources and hasten their development.

Native agricultural schools have been established in the Union. They give instruction in agriculture to Native students, and train Native agricultural demonstrators to teach their people the advantages of improved methods of cultivation and animal husbandry. These facilities would become available to the inhabitants of the Territories.

The Union Government may state that in so far as its knowledge of present conditions enables it to formulate its policy towards the Natives in the event of transfer, its intention is that:

(a) The tribal system and the authority of the Chiefs should be maintained and the Chiefs should continue to receive the allowances hitherto paid to them by the Imperial Government.

(b) There should be no alienation of any land in Basutoland, nor of any land forming part of the Native reserves in the Bechuanaland Protectorate and Swaziland.

(c) No Natives should be introduced into Basutoland or the Native reserves of the Bechuanaland Protectorate or Swaziland for settlement without the consent of the inhabitants of the areas concerned.

(d) The existing educational, medical and other social services, and the schemes for veld reclamation, the combating of soil erosion, the development of agriculture, the improvement of stock, the provision of water supplies and the construction and maintenance of roads and bridges should be continued and extended as circumstances permit.

(e) The principles laid down in Proclamation No. 2 of 1915 (Swaziland), which makes provision for controlling the purchase by Natives of land in Swaziland and for securing for the benefit of the Swazis land acquired on behalf of the Swazi nation, should be maintained.

Enclosure 2 in No. 89

(No. 2239.)

(Confidential.)

MY DEAR PRIME MINISTER, Pretoria, August, 1939.

I am sending to the Secretary of State a copy of your confidential letter No. P.M. 1/7/3 of the 26th August, together with the new draft memorandum enclosed with it.

I am requesting the Resident Commissioners to have both the report of the Joint Advisory Conference and your Government's Memorandum translated into the relevant native vernaculars, and I am also asking them to indicate how long this will take. I shall then be able to suggest for your consideration dates of publication for the two documents.

Yours, &c.,

W. H. CLARK.

General

The Honourable

J. B. M. Hertzog, M.P.

Y. 6/349. No. 90. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 6.28 p.m., 19th September, 1939.)

(Paraphrase.)

No. 113. Secret. 19th September. Secretary for Native Affairs came to see me recently and subsequently wrote that his Minister agreed with view which he had expressed that publication of report of Advisory Conference and of Union Memorandum should not be proceeded with and that the whole question of transfer should be allowed to remain in abeyance. Copy of letter was enclosed in my letter to Machtig of 14th of September*.

As I was seeing Smuts yesterday I thought it would be well to ascertain whether he concurred. He agrees both as to withholding publication and as to transfer question remaining in abeyance and happened without any special intent to speak of " abeyance for duration of war " but Smuts at once substituted " abeyance for the present ". Later on he said war might present a convenient opportunity for putting transfer through. He was speaking in a light vein but no doubt feels it desirable to avoid committing himself in case an opportunity should arise for making a deal.

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* Y. 6/350 : not printed.

S.A.H.C. Territory—(C.35932/248). 24.

Y. 6/352. No. 91. PROOF.

Working Copy

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 7 p.m., 12th October, 1939.)

(Paraphrase.) [transmitted by No. 94]

No. 123. 12th October. Confidential. *Part I.* Please refer to my telegram No. 113 of the 19th of September*. Reitz came to see me yesterday for a talk in view of his early departure for the United Kingdom. He surprised me by saying that one of the subjects which Smuts wished him to take up with you was early transfer of High Commission Territories. I had not taken it very seriously when Smuts (see telegram under reference) had spoke of war as possibly providing a convenient opportunity for proceeding with transfer, but apparently he has been turning matter over in his mind.

Reitz told me that Hertzog before splitting had intimated to Smuts that if no progress were made by next Session, he contemplated moving in Parliament for an Address under Section 151 of Act of the Union (see my telegram secret No. 141 of 18th of August 1937†) and Smuts thought that he might now make the same motion from Front Opposition Bench in which case whole House of Assembly, irrespective of Party, could not fail to support him. This would create a disastrous situation. On the other hand Smuts thought that during the war our House of Commons would take less interest in question and it should be easier to put through transfer at any rate of Swaziland or possibly Swaziland and Bechuanaland Protectorate.

I ventured to suggest that Smuts was mistaken on this latter point and that Members interested in territories would be more likely to draw ? uncomfortable contrast between our chivalrous attitude toward small nations in Europe and somewhat high handed procedure apparently contemplated in respect of no doubt smaller nations in South Africa. In any case we could hardly ignore our pledge of consultation with natives.

Later in the day I had to see Smuts on another matter and mentioned my talk with Reitz. We had no time to discuss the question at length but the same points were touched on. Smuts' standpoint is naturally influenced by very great political advantage which would accrue to him if he could make progress with transfer question in contrast to Hertzog's repeated failure to solve it.

Part II follows.

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* No. ~~Y. 6/345.~~ 90.

† Y. 6/67: not printed.

S.A.H.C. Territory—(C.38377/249). 6.

Y. 6/352.

No. 92.

PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 8.5 p.m., 12th October, 1939.)

(Paraphrase.) [transmitted by No. 94]

No. 123. 12th October. *Part II.* I expressed our sympathies with his point of view but thought it best not to minimize difficulties. This morning Secretary for Native Affairs came to see me and said that Reitz had been thinking over our talk of yesterday. He had come to the conclusion that they must concentrate upon Swaziland and Swaziland only, since there the Union Government would be able to make a really substantial contribution which might induce Swazis to acquiesce in transfer. I understood from Smit that Union Government would be prepared not only to offer purchase of land for enlargement of Reserves but also to consider question of a through railway and reduction of native taxation. Smit added that Reitz would discuss matter when he was in England from standpoint of securing your agreement to his entering into negotiations with Sobhuza and I promised to inform you in advance so that you might have time for reconsideration before Reitz arrives. Obviously as matter now stands proposition is a great improvement upon what Smuts originally had in mind; and if when Union Government get down to details they feel able to make as generous an offer as they foreshadow at present it is one which Swazis would have to consider most seriously and might one hopes accept.

S.A.H.C. Territory—(C.38377/252). 6.

Y. 6/352. No. 93. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 9.35 p.m., 12th October, 1939.)

(Paraphrase.) [transmitted by No. 94.]

No. 124. 12th October. Confidential. My telegram No. 123/12th October*. Confidential. Smit has been authorized by his Minister to inform Priestman that since my interview with Smit question was further discussed by Reitz with Smuts to-day. Last named while in general agreement with policy to concentrate on Swaziland has instructed Reitz to raise also question of transfer of Basutoland and Bechuanaland Protectorate on the ground that if His Majesty's Government in the United Kingdom were faced with demand for transfer of the three Territories they might find it easier to convince British public of necessity for agreeing to transfer of one as compromise solution.

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* No. ~~Y. 6/352~~ 91.

Y. 6/352. No. 94. PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 12 midnight, 18th October, 1939.)

(Paraphrase.)

No. 144. Confidential. Your telegrams Nos. 123 and 124 of 12th October*. It has come as an unpleasant surprise to me that General Smuts wishes to raise question of transfer again at this moment. You should let him know that I shall of course be ready to discuss matter with Reitz but I think that you should explain to him at the same time that, subject to the views of my colleagues whom I propose to consult before Reitz arrives, my present feeling in regard to matter is as follows. I entirely share the view which you have already expressed to him as to the attitude of the House of Commons here and it would certainly be wrong to assume that Parliament would be indifferent to the matter if there was any suggestion of trying to make use of the present preoccupation of public opinion with the conduct of the war to force through the transfer of any of the Territories, if there should be strong opposition from the native inhabitants. General Smuts will appreciate that while we fully recognize the significance of Section 151 of the South Africa Act our position is also governed by the pledges to Parliament and the inhabitants of the Territories with which he is familiar and that we could not contemplate making any prior bargain for the transfer of Swaziland alone as a compromise solution as seems to be suggested in your telegram No. 124.

If it is felt that in view of possible action by Hertzog in the Union Parliament the question must be pursued, it ought, I think, to be continued on the lines agreed with General Hertzog and indicated in the joint statement of March 1938 viz. the next step should be the publication of the Union Government's memorandum as to conditions on which the Union Government would propose that transfer should take place if decided upon. It would be for the Union Government to consider whether they would be able to include in such a memorandum conditions in the case of Swaziland such as you mention with a view to making the idea of transfer more attractive to the inhabitants of Swaziland. But we cannot of course guarantee that even the most favourable offer which the Union Government can make would not leave a large body of native opinion in Swaziland strongly opposed to transfer or that the issue of the Union memorandum might not provoke demonstrations on the part of the natives in the three territories against transfer.

I imagine General Hertzog could hardly press matters strongly in Union Parliament if action was being taken on the lines indicated above (i.e., issue of Union memoranda) which are those which he himself had previously agreed with us and had announced. I appreciate, of course, General Smuts' difficulties and am as anxious as he that Union opposition should not push matters to the point of moving for an address to the King. It is indeed only from this point of view that I would suggest proceeding with publication of Union memorandum, since I am naturally anxious in present circumstances, when our activities must be so largely devoted to matters connected with the war, to avoid administrative difficulties in the Territories which may, I fear, result from publication of the memorandum.

Subject to your observations I should like you to speak to General Smuts in this sense as soon as possible so that he may be aware how I regard the matter before Reitz opens discussions here.

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* Nos ~~Y. 6/352~~ 91-93.

S.A.H.C. Territory—(C.38377/250). 6.

Working Copy

Y. 6/356. No. 95. PROOF.

SIR ERIC MACHTIG (DOMINIONS OFFICE)

to

SIR WILLIAM CLARK (HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND).

(Personal and Secret.)

MY DEAR WILLY, Downing Street, 30th October, 1939.

With reference to the Secretary of State's telegram No. 148 of 28th October*, I enclose copies of notes of discussions which the Secretary of State and the Duke of Devonshire respectively have had with Colonel Reitz since the latter's arrival regarding the question of the transfer of the Territories.

The Secretary of State expects that he will have to see Colonel Reitz again on this subject, but it does not look as if the latter intends to press the matter, and it is satisfactory that he did not pursue in his talk with the Duke the suggestion that we should take steps to secure an option on land in Swaziland, with a view apparently to the Union Government acquiring the land later on to hand over to the natives.

I will, of course, keep you informed of any further developments.

Yours, &c.,

E. G. MACHTIG.

Enclosure 1 in No. 95.

EXTRACT FROM NOTE OF DISCUSSION BETWEEN MR. EDEN AND COLONEL REITZ ON 23RD OCTOBER, 1939.

Colonel Reitz then continued that there was a further subject which General Smuts had instructed him to speak to me about, viz., the native territories. The Union Government fully appreciated the difficulties that lay in the way of transferring either Bechuanaland or Basutoland. Moreover, neither of these territories would be an asset to the South African Government. Therefore he had no suggestion to make in respect of them. At the same time I would be aware that in the view of public opinion in the Union we had a certain commitment towards them in respect of these native territories in general and of Swaziland in particular. General Smuts did not regard the issue as immediate, but he was quite sure that once the war was over the demand would become insistent. Therefore he hoped that some arrangement could be arrived at between us now. Could we agree, for instance, that if the Chief Sobhuza were satisfied with the offer of territory which the South African Government were prepared to make, that then we should not ourselves object to transfer? One difficulty in connexion with the offer of more land to the Chief Sobhuza was the certainty that once it were known that transfer was contemplated, the price of land would go up. Colonel Reitz had therefore a practical suggestion to make. Could not we send somebody out to take an option on land now? Colonel Reitz added that he thought that Sir William Clark had been a trifle perturbed at the general subject being raised. He had therefore made it plain to him that the matter of actual transfer even of Swaziland was not immediate, but the problem was there.

In reply I told Colonel Reitz that though I was new to the Dominions Office and the back history of this difficult question was therefore only known to me at second hand, I could assure him that it would be a grave mistake to underrate the public interest in this matter at the present time. Nothing could make a worse impression than if we were to appear to hand over these territories in time of war when we were fighting for the interests of small nations. Colonel Reitz said that he completely understood this, and indeed elaborated that argument further himself, repeating his assurance to me that his Government were not asking for transfer in war time; indeed they were most anxious not to create any embarrassment for us. I then said that though the Chief Sobhuza might be satisfied by an offer of land, was Colonel Reitz sure that the majority of the Swazi Chiefs would also be satisfied. Colonel Reitz replied that he thought that they would if the offer of land was considerable, as it would be. I then said that in any event it would seem to me of doubtful wisdom to send anybody from this country to take an option on land which the Swazis might later occupy. To do this might give rise to every kind of rumour. Colonel Reitz, who had not apparently thought of this aspect of the question, at once assented.

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* Y. 6/356: not printed.

S.A.H.C. Territory—(C.38377/254). 6.

Finally I undertook to consider very carefully what Colonel Reitz had said to me, and added that he would understand that it was impossible for me to go beyond that at present: nor could I give him any kind of assurance. Colonel Reitz replied that he perfectly understood, and repeated that the last thing which he or General Smuts wished to do was to embarrass us here at a difficult time when we had so many other and more important issues to consider.

(Intld.) A. E.

23rd October, 1939.

Enclosure 2 in No. 95

NOTE OF DISCUSSION BETWEEN THE DUKE OF DEVONSHIRE AND COLONEL REITZ ON 24TH OCTOBER, 1939.

I called on Colonel Reitz this morning, and after some general conversation we got on to the subject of the territories.

Colonel Reitz said that he fully realized that Bechuanaland and Basutoland must wait for a long time, probably for a generation, but that he thought that Sobhuza could be got round. The Union Government would be prepared to make more land available for the Swazis and might also go on with Lord Milner's project of a railway through the country, which had been abandoned.

Moreover, Swaziland was different from the other territories in that in many respects it was already part of the Union. It had in times past been part of the old South African Republic, and even now the Union was responsible for its postal services and its taxes. A great number of Swazis who looked to Sobhuza as their Chief lived in the Union, and so far as he was aware, they were quite as happy as those who lived in the territory.

I assured Colonel Reitz that so far as the Dominions Office was concerned we were not at all anxious to stand in the way of transfer. We recognized the political difficulties which the existence of these territories, and particularly of Swaziland, made for the Union Government, and we were as anxious as he was to see the question settled, but we could not go back on our pledges, either to the Swazis or to the House of Commons, and it was absolutely essential that both should be consulted before transfer could take place. Unless the goodwill of the Swazis was secured we should be involved in very great difficulties in the House of Commons, for this was a question which cut right across Party divisions. Transfer would be opposed by a considerable section of Liberal and Labour opinion, which was subject to influence from the missionaries, and would strongly resent any arbitrary treatment of the natives. On the other hand, there was still a considerable body of true blue Tories who were not perhaps so keenly interested in the natives, but did very much dislike the idea of hauling down the Union Jack anywhere or of handing over British territory to a Government which might some day become a republic outside the Empire. It would be very difficult for any Government to carry through a proposal which united against it both Left Wing and Right Wing opinion.

Colonel Reitz said that he fully realized our political difficulties, and that General Smuts was most anxious not to embarrass us. He would like to get on with transfer but he would not press it during wartime. It would, however, become acute after the war, and he would like some move to be made.

On this point he said that, while in many ways he welcomed the appointment of Sir Edward Harding, he was sorry that a man whose opinions on the subject of transfer were so inflexible had been appointed, and that whatever his opinions might be he thought the Union Government were entitled to hope that he would refrain from "rocking the boat" if the Union Government reached the stage of making any overtures to Sobhuza. I assured him that he had been misinformed about Sir Edward Harding's attitude, and that he would find him most anxious to help, subject to the considerations I had stated.

He was very pleased to hear this and said that he could not remember who had told him, but he had got the impression from someone—he thought an official in his department—that Sir Edward was inflexibly opposed to transfer at any time or under any circumstances.

He then touched on the question of land and the difficulty which would be caused by an immediate rise in land values if it was thought that transfer was due to take place. He did not refer to the suggestion that the British administration should secure options which he made yesterday. I made the tentative suggestion that when Sir Edward Harding gets to South Africa he should discuss with him the possibility of some exchange of officials. I did not know whether this was a practical possibility, or whether there were technical difficulties which made it impossible, but if it were possible I thought it would be

a valuable first step. I told him that, on my return from South Africa, I reported to you that while I thought transfer should be our ultimate policy, I did not regard it as a practical possibility at present, and that our policy should be rather to produce conditions which made transfer possible. He would always find us very willing to co-operate with him in this policy, but this did not mean that we could bring pressure to bear on Sobhuza. He acquiesced to this at once.

Towards the end of our conversation he became much less insistent, and ended up by saying that if some sort of move could be made in the next ten years he thought that his Government would be satisfied. They quite realized that these territories were a liability and not an asset to whoever administered them, and they did not want them for themselves in the least but only because of the political difficulties which their existence created. He wished most heartily that the paragraph about them in the South Africa Act had never been written. He left me with the impression that he had been instructed to fly a kite but not to press matters or to embarrass us if we found difficulties in making a move.

(Intld.) D.

24th October, 1939.

Y. 6361

No. 96.

NOTES ON THE HIGH COMMISSION TERRITORIES.

II. The Question of the Transfer of the Government of the High Commission Territories to His Majesty's Government in the Union of South Africa.

(Copies received in Dominions Office on 2nd April, 1940, under cover of secret letter from the High Commissioner in the Union of South Africa, dated 15th March, 1940.)

During my term of office the question of transfer has progressed on the lines of a recurrent fever, the temperature rising rapidly from time to time, especially during and after General Hertzog's visits to the United Kingdom in 1935 and 1937, and, in between, falling for long intervals to normal, or even to what in the circumstances might be regarded as sub-normal. This may seem something of a paradox in view of General Hertzog's frequent assertions that transfer was "a burning question" and in view of his having taken the subject into his own personal charge, but probably the explanation lies precisely in this latter circumstance. The General's qualities are not of the type that produce efficiency or despatch in the discharge of business; his leadership has been the outcome rather of personality and a resolute tenacity in the pursuit of his political ideals, and as the years and infirmity have gained upon him, his activity in the handling of public affairs has become increasingly intermittent, especially when one takes into account the long absences on his farm where, I understand, he did not welcome the receipt of official files. Hence the curious delays in the preparation of the memoranda which were to clarify for our natives the benefits of Union rule and the safeguards against its abuse: they were begun, if I remember correctly, in October, 1937, but only reached their final form a short time before the outbreak of war.

2. As regards the attitude of the Chiefs and natives of the Territories, it must be said, I am afraid, that they are to-day probably even more hostile to transfer than they were when I first came into contact with this question five years ago; and I doubt if there is any material difference in this respect between the several Territories, except perhaps that feeling is more deep-rooted and intense among the Basuto than in the other two Territories. General Hertzog's government are themselves in part to blame for the growth of this more uncompromising temper. It is not necessary here to attempt a balance between the merits and demerits of the policy which is enshrined in the Union's native legislation of 1936 and 1937 (the subject is dealt with fully in the Memorandum on Native Policy in South Africa, Dominions Office, 183, of April 1938); what matters is that native opinion in the Union has inevitably tended to concentrate on the natives' losses—the elimination of the Cape franchise, especially, and the stigma of segregation—rather than to acknowledge their gains: and the sentiment thus aroused has had its reactions in the Territories. The natives in the Union are strongly opposed to seeing transfer effected: our natives are fully aware of their views and are naturally impressed by them. The more intelligent of our Chiefs also—and it is the more intelligent who will take the lead when the crises comes—have not failed to observe the trend among the Malanites and in the Pirow-Kemp section of General Hertzog's former cabinet towards a more uncompromising anti-native, or at any rate "Europeans first" policy; and they appreciate the possibility that these people may be in office before many years have passed. Their case against transfer has naturally been greatly fortified by the recent intensification of republican propaganda in the Union. A detached observer may legitimately feel that there is an element of unreality in this propaganda and that many of those who advocate a republic are chiefly concerned to embarrass General Smuts; but so long as it persists with its present fervour, our natives can reasonably contend that they are entitled to object to being handed over to the government of a country in which an important political party is vehemently preaching separation from the British Crown. Governments, as the last post-war period showed, are apt to find their position precarious in the reaction which inevitably follows on a war, and one cannot say that there is no chance of Dr. Malan ousting General Smuts when the war is over. In the meantime there is evidence that our Chiefs, whose loyalty is given first and foremost to the person of His Majesty The King, have been genuinely shocked at General Hertzog's advocacy of neutrality. Mr. Clarke tells me that in the Bechuanaland Protectorate he had some difficulty in preventing his Chiefs moving a resolution to that effect at a meeting which he summoned immediately after the outbreak of war: they duly abstained at his request, but insisted on voicing their indignation and added "These are the people to whom you talk of handing us over."

3. Side by side with all this, the progress made in the Territories during the past five years, which is summarized in Note I, has contributed to render our natives still more reluctant to be removed from our rule. It was possible for General Hertzog five years ago, in our first serious talk about the Territories, to cite Isang, uncle of the Chief of the Bakgatla in the Bechuanaland Protectorate, as a chief who had openly advocated transfer. Isang at that time had had serious friction with the administration, and this probably had much to do with his attitude: similarly the feeling between Colonel Rey and Tshekedi was causing a good deal of unrest and discontent throughout the Protectorate. Now, however, relations between the administration and the Chiefs in the Bechuanaland Protectorate are on a very satisfactory footing, and the Chiefs appreciate the greater responsibilities which are being entrusted to them and which they would be unlikely to enjoy under the Union. The same is true about Basutoland: the position in Swaziland is somewhat different as the question of regulating native administration has not yet been taken up, but relations are entirely cordial. We must also bring into the account the many material benefits of the past few years, benefits which the Chiefs and peoples realize are due to the generosity of His Majesty's Government in the United Kingdom.

4. These things being so, it is obvious that the report of the Advisory Conference on Co-operation, and the Union Memoranda, now boiled down into a single memorandum, when eventually published, will be a *brutum fulmen*. For political reasons the late Union Government felt themselves unable to abolish the weight restrictions on our cattle which was the one really spectacular piece of co-operation open to them; and in their memorandum they do not bind themselves with any definiteness to provide more generous benefits than those already accruing to the Territories through the liberality of the Colonial Development Advisory Committee and His Majesty's Treasury. Indeed the Union Secretary for Native Affairs has admitted that it would not be within the realm of practical politics for the Union Government either to maintain or to provide services for natives in the High Commission Territories on a more generous scale than those obtaining in the native areas of the Union. The most effective argument in the Union Government's memorandum is the hint of what may happen if transfer

continues to be withheld, and it may be doubted whether the Chiefs will take this veiled threat very seriously. They will probably feel that somehow or other His Majesty's Government in the United Kingdom will see them through.

5. General Smuts, it will be remembered, made a preliminary démarche towards transfer last October, and though he is unlikely to try again during the war, he may decide to take vigorous action when the war is over. If so, it will be a more formidable affair than when General Hertzog was in charge. I do not know whether he has the same personal feeling about it as General Hertzog, who regarded our hesitancy as a slur upon South Africa's rule as embodied in himself, but he certainly wants to get the question disposed of. He has more than once said to me that he considers it the only dangerous rock of offence still remaining between our two peoples, and, apart from that, he is doubtless human enough to wish to wipe General Hertzog's eye by succeeding where his brother General had failed—and in an affair which the latter had made peculiarly his own. How far he will carry things if he does take the question up is another matter. When he has once made up his mind, General Smuts can be very determined and ruthless, though I can hardly believe that he would wish to go so far as to risk a serious breach with our Government on this question. But it is always possible that he may go farther than he intends, because, despite his outlook and culture being so much wider than that of most of his countrymen, he is nevertheless too much of an Afrikaner of the old school altogether to appreciate that the British Government and Parliament will insist on taking their obligations to our natives seriously, even though the result may be prejudicial to the relations between two white peoples of the Commonwealth.

6. Nevertheless, when General Smuts does come to grips with the question, he will find that even from the point of view of his own people it will not be altogether plain sailing. Two of the Territories, as we know to our cost, are extremely expensive to administer, and the House of Assembly, to put it mildly, is unenthusiastic about the provision of funds for natives. The policy adumbrated, though not actually implemented, during the parliamentary session of 1939 and which probably still holds the field, was that in future the full proceeds of the general tax on natives should be handed over to the Native Trust and that all native services should be financed therefrom, including education, which was to be transferred from the provincial administrations to the Native Affairs Department. In other words, the natives are to pay for the services which they enjoy without any contribution from the general revenue of the Union. That, of course, is precisely what the Bechuanaland Protectorate and Swaziland cannot do, if present standards are to be maintained; and one wonders how it is proposed to deal with the question. It will be remembered that a somewhat similar problem arose in connexion with the Union's financial responsibility for the Mandated Territory of South West Africa, and that the settlement was palliative rather than definitive. There will certainly be much opposition in the House of Assembly if it is intended to provide the necessary monies from general revenue; on the other hand, it would clearly be unjust to place the burden on the Native Trust, which would in fact mean making the Union native pay. (Incidentally, this possibility is one of the reasons why Union natives are so strongly opposed to transfer.) The difficulty will be still more serious after the war, when one may expect another world depression and when governments will have to find funds for the resettlement of their fighting forces in civilian occupations.

7. I am afraid it must also be said that the same considerations apply with even greater force to General Smuts' and Colonel Reitz's proposal to offer the Swazis the costly boon of more land, reduced taxation, and, possibly, a railway. When the Secretary for Native Affairs, Mr. Smit, submitted the land proposition to General Hertzog, the latter turned it down on the ground that it was beneath his dignity to offer bribes to natives; but I fancy the political difficulties may also have been in his mind. It will be remembered that in his last budget Mr. Havenga cut down the promised £2,000,000 per annum for the acquisition of land for natives in the Union to £1,000,000; it would be a little out of proportion now to assume yet further burdens in connexion with land in order to secure an addition to the seven million of natives for whom the Union is at present responsible.

8. Besides, opinion in the Union is very far from unanimous about transfer. That again is one of the paradoxes of the subject. If one were to ask any South African, British or Dutch, whether he thought the Union should have the Territories, the answer would be emphatically in the affirmative; but if the Territories were offered to the Union tomorrow, there would be a considerable outcry from the politically important agricultural community, who would react strongly against the prospect of seeing the restrictions on the import of cattle removed. General Hertzog used to admit the genuineness of this feeling, but argued, not very convincingly, that when it came to the point, the farmers would regard the removal of "the slur" as a sufficient solatium. Dr. Malan is more realist, and his attitude is significant. He and his party very rarely raise the question in the House of Assembly or from public platforms: when he last referred to it in one of his campaigning speeches, he was content to say, if I remember correctly, that the Union ought certainly to have the Territories, but that the Government must fully compensate farmers for any detriment which might result to their interests—a proposition, of course, which, if accepted, would add an incalculable amount to the cost of transfer. He and his friends, and for that matter most other Afrikaners, would also object to the acceptance of the financial commitments which transfer would involve.

9. Another quarter from which opposition would emanate would be the natives' representatives in the Union Parliament. These, of course, are few in number, but their opposition would be damaging—the more so perhaps because two of them, Senator Brookes and Senator Rheinallt Jones, formerly favoured transfer and would give inconvenient reasons for having changed their minds. Their attitude would also afford a handle to the opponents of transfer in the United Kingdom.

10. The most formidable threat which a Union Government could proffer if they were determined to force an issue would be that of denouncing the Customs Agreement of 1910. There can be no question about the importance to the Territories of their present rights of access to the Union market, as provided under the Agreement, even though for the Bechuanaland Protectorate and Swaziland they have been impaired by the imposition of the weight restrictions on cattle. The Union Government's

action in the latter respect was, of course, unjustifiable, but it may not have been altogether unfortunate from our standpoint: without it, pressure from the Union farmers during the slump might have become acute enough to precipitate a crisis which might have ended in the loss of the whole Agreement. But here too there are considerations on the other side. The Agreement is of appreciable value to the Union as well as to the Territories: the latter import about £1,000,000's worth of general merchandise every year, most of it of Union manufacture. If we instituted tariffs of our own at rates which no longer protected Union manufacturers against oversea competition, they would lose a valuable trade—especially the concerns like the Harrismith blanket-makers who manufacture especially for the Territories market. If therefore, a Union Government were to threaten to denounce the Agreement unless the Territories were handed over, we should be able to produce a counter-threat of considerable importance in the case of Basutoland and by no means negligible in the case of the other two Territories.

11. It has also to be said that the security of market to be derived from transfer is not quite so complete as the Union memorandum suggests. Cattle diseases are endemic in South Africa, and it is tempting for the Minister of Agriculture to assume that they are always generated in native reserves. It is moreover open to doubt whether the removal of restrictions on cattle export to the Union would provide markets for native-owned scrub cattle. The Union Department of Native Affairs has not yet solved this problem in the Transkei and Zululand. The marketing also of the principal items of agricultural produce is now under recent legislation being handed over to Marketing Boards on which the European farmers have controlling majorities and there is no representation of the natives. Native interests, therefore, are apt to be subordinated to the white man's or ignored, as was illustrated recently in the case of the mealie scheme.

12. The Union is also the market for the labour of the Territories, but in that instance the boot is now on the other leg. The shortage of native labour in the Union, whether for the mines, for agriculture, for industry or for other purposes, is becoming an acute economic problem, and no government could venture to prohibit the import of labour from the Territories. On the contrary, indeed, we could dictate almost any terms, if it were practicable for us to threaten to hold up the present exodus.

13. Let me attempt to sum up. The problem of transfer, clearly, is one of those where it is easier to enumerate the various conflicting complexities than to propound any definite conclusions. His Majesty's Government in the United Kingdom are in a dilemma between, on the one hand, their obligations to Parliament and to the natives of the Territories and, on the other, expediency which indicates the desirability of terminating at one and the same time a source of friction between two Commonwealth governments and a drain on the British Exchequer. Similarly, on the Union's side expediency would favour leaving things as they are—letting the United Kingdom shoulder the expense while the Union gets the use of our labour, securely segregated by the general desire of our natives to remain under the British aegis, and avoids the cost and possible friction involved in administering reluctant tribes—, but prestige demands that they should continue to insist on transfer.

14. Is there then any way out? My first proposition, I am afraid, has to be negative. After five years' experience of our natives and their Chiefs, I can see no prospect of the policy of co-operation producting acquiescence unless the Union Government are prepared to make much more impressive offers than those contained in the report of the Co-operation Conference. Apparently General Smuts and Colonel Reitz contemplate offering the Swazis some really spectacular boons—land which is urgently needed, reduction in taxation, possibly a railway, and perhaps jurisdiction for their Paramount Chief over Swazis in adjacent Union territory. I have suggested above (paragraph 7) that Ministers, when they get down to the difficulties, may have to change their minds; but it would be a most convenient solution if the offer were made and were accepted—as it well might be, always provided that the current propaganda for a republic does not become too acute. If the transfer of Swaziland should prove to be practicable on this basis, prestige on the Union's side would be satisfied: Union Ministers would be able to say that the principle of Union rule had been accepted, and could add, if they were wise, that they preferred to make a start with one Territory and were not in a hurry about the others. From our point of view, we should have parted with the one of the three Territories which in some ways is most difficult for us to handle satisfactorily. I have in mind especially the problem of the European community. They own some 60 per cent of the total area of Swaziland but contribute very little to the revenue, and it is impossible to make adequate provision for their needs, particularly in respect of education, and of the assistance in various forms without which the weaker South African farmers seem unable to make a living. Hence in the poorer areas of the south there is a real danger that Swaziland may find herself saddled with a serious problem of poor-whiteism. The experiment would also serve as an object-lesson to all parties concerned—to the British Parliament, to the Union Government themselves, and to the Chiefs and peoples of the other two Territories; and thus, whichever way it worked out, might contribute to a final solution of the whole question, either by transfer of the other two Territories, or by the Union Government deciding not to press their claims further.

15. If the Swaziland proposition should not materialize, but if none the less General Smuts does press the transfer question after the war, we might urge the importance of a more realistic brand of co-operation. The Union attitude is that a large concession, such as the removal of the weight restrictions on cattle, can only be given *after* transfer: Mr. Clarke, representing the principal cattle-raising Territory, argues—I think correctly—that a promise for the future, from people whom they do not trust, will never influence our Chiefs. On the other hand, he thinks that if the concession were made and remained in force for, say, ten years, the natives having grown accustomed to its benefits, and having become more closely identified with the economic system of the Union, might be prepared to acquiesce in transfer rather than lose these advantages. It must be admitted that this is not a very stimulating prospect to hold out to a Union Government, but I think Mr. Clarke's reasoning is sound and offers the best chance of an amicable solution—always provided that the Union Government could bring themselves to face the political opposition which would certainly accrue.

16. A qualification has, however, to be made in the case of Basutoland. Basutoland is not interested in the export of cattle and therefore would not be influenced by the concession Mr. Clarke has in mind. The Territory also is less exposed than the others to economic pressure, since two of its principal exports are labour and wool, the one a vital requirement of the Union, and the other not necessarily dependent on the Union market. Wheat, however, would still be vulnerable and there is the possibility, I suppose, that the Union might introduce differential railway rates for Basutoland's wool and other products. In any case the Basuto are less likely than the natives of the other two Territories to be influenced by material considerations. For historical reasons their attitude to the Union is one of deep-rooted and convinced distrust: this is a national sentiment akin to the feeling cherished by the southern Irish against the British or the Czechs against the Germans. Basutoland, therefore, would probably remain unaffected even if the other two Territories yielded to economic blandishments. The Union Government, however, fully appreciate that taking over Basutoland might have its embarrassments, and they probably would not be particularly urgent about it, despite the undeniable fact that the geographical argument is stronger in the case of Basutoland than of the other two Territories, since Basutoland alone is completely embedded in the Union.

17. In the course of my conversations with General Hertzog on the subject of transfer, it became evident to me that he was under no illusions either as to the opposition of our natives or as to the possibility of its being overcome through co-operation. He appeared to have accepted the "full acquiescence" formula under the erroneous impression that our officers would be instructed to exercise influence on the natives to accept transfer; and he several times expressed to me the opinion that they in fact exercised influence the other way—a quite baseless allegation, as I invariably told him. His view was that the only effective solution was for them to be instructed to work for transfer. Within certain limitations this proposition may well be true, but the limitations are not inconsiderable. Our officers are at present instructed to adopt—and do adopt—a wholly neutral attitude on the transfer question: if they were invited to depart from this attitude and endeavour to familiarize the natives with the idea of transfer and the advantages which might accrue therefrom, it would probably have some influence in course of time, but, needless to say, the thing would have to be done very cautiously and there would be some danger of their forfeiting the confidence of the Chiefs. The question is a very difficult one, for I think it must be admitted that our present position is somewhat ambiguous. We have told the Union Government and the people of the Union (through the published White Paper of March, 1938) that we fully recognize that Section 151 of the South Africa Act has a meaning and intention and that we do not seek to minimize its significance. At the same time in the Territories we stand studiously aloof, except in so far as it might be argued that the reforms which we have introduced in respect of native administration, etc., are hardly conducive to transfer (see paragraph 3). It is understandable that in these circumstances neither the Union Government nor the Chiefs feel too sure about our ultimate aims. However, so far as our officers are concerned, His Majesty's Government in the United Kingdom could scarcely, I suppose, invite them to take even tentative action unless they felt that they were in a position to demonstrate to Parliament that transfer was desirable in the interests of the natives themselves, which merely opens up again the familiar pros and cons, some of which have been discussed in the earlier part of this note. And, after all, the policy of co-operation does at the moment hold the field. We find ourselves back again, therefore, at the proposition that acquiescence must be secured, and that the Union Government must face that fact in a more realistic spirit than they have hitherto shown.

W. H. CLARK.
January, 1940.

P S.—This note was written before General Hertzog and Dr. Malan had announced their agreement that their respective followers should work together in Parliament under the title of "The Reunited Nationalist or People's Party". (The question of a formal coalition will ultimately be submitted to party meetings.) The new party has definitely committed itself, subject no doubt to some important provisos, to the republican ideal. The fact that the official opposition as a whole have adopted the republican formula gives additional force to the considerations set out in the latter part of paragraph 2 above. See also Political Notes, Note I, paragraph 35.

W. H. CLARK.

Enclosure 1 in No. 96

Extract from "Political Notes" by Sir William Clark.

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In the meantime the parliamentary coalition of the Hertzogites with the Malanites and the formal adoption of republicanism by the thus enlarged opposition is likely to have an important effect in connexion with another matter with which His Majesty's Government in the United Kingdom are greatly concerned—the question of the transfer of the High Commission Territories to the Union Government. In my note upon that question (Notes on the High Commission Territories, Note II, paragraph 2), I have pointed out that our natives are in a strong position if they object to being handed over to the Government of a country in which an important political party is vehemently preaching separation from the British Crown. I wrote that paragraph before the parliamentary amalgamation of the two oppositions had been announced and obviously the case is still stronger now. It could scarcely be argued that the meaning and intention of Section 151 of the South Africa Act would hold good if South Africa became a foreign country; and in view of the formal adoption of the republican principle by this much more comprehensive official opposition, objectors to transfer seem entitled to contend, despite the provisos to the formula, that [redacted] is at least a possibility and that transfer should be regarded as out of the question until the trend of politics in South Africa can be more clearly discerned.

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Enclosure 2 in No. 96

Extract from "Political Notes" by Sir William Clark.

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One last point. I have devoted much space to the relations between Dutch and British in South Africa because of their important reactions on the relations of Great Britain with the Union. It is indeed lamentable that a better understanding between the two races has not been attained during nearly thirty years of Union, and still more lamentable if I am right in thinking that there is not much prospect of an effective and durable improvement in the early future; yet this is not the gravest of the problems which lie ahead. At worst, the two races will be able to rub along somehow as they have done in the past. The gravest problem in my judgment is that of the treatment of the non-European races. As regards the natives, I have written in an earlier section of this note about the inadequacy of General Hertzog's segregation-cum-trusteeship plan, if, as he claims, it is to be regarded as a final solution of the difficulties which arise in a country where black and white can live side by side and propagate their respective kinds. Properly speaking, segregation in existing conditions is not a policy in the full sense of the word; it is rather a device for making more workable the policy which decrees that the white man is to be dominant in every aspect of political, economic and social life; and that the sphere of the native is to be strictly limited to subordinate service to the superior caste—service which is to be so hedged round that, while promoting the white man's economic and social interests, it shall not clash with those of the lower classes of white labour. Nor does the segregation principle afford in practice any adequate scope for the growing native intelligentsia; in other words the overriding policy remains a policy of domination and repression, and I am afraid it must be said that it has the approval, conscious or unconscious, of the average British South African as well as of the average Afrikaner. The British by tradition and temperament, especially the younger generation, are more liberal in their attitude towards colour than the Afrikaners, but in practice, even when they do not actively approve, they are ready tacitly to acquiesce; the Labour Party, including its British members, goes further and strongly supports the restrictions on native economic progress. Yet the policy of repression is a policy which leads nowhere and will become more tragic in its futility and in the passions which it will arouse as the numbers of the native population increase with the passage of the years. And, unhappily, there is all too much reason to think that the same principle is increasingly dominating policy in respect also of the coloured and Asiatic communities, who between them contain close on a million souls. Indeed, the census figures are the best index to the gravity of the problem and afford, in brief, the clearest indication of the inevitable ineffectiveness, putting consideration of ethics and humanity aside, of current policies. They are worth quoting:—

Population of the Union 1936.

Natives	6,600,000
Coloured	770,000
Asiatic	220,000
Total Non European	7,500,000
Total European	2,000,000

It will be seen that, out of a total population of less than ten millions, two million whites are trying to isolate 7½ millions of natives, coloureds and Asiatics and at the same time to obtain the maximum benefit from their services; and, over and above this, they are seeking to prevent this enormous majority securing the opportunity of rising above their present depressed standard of living, and are thus throwing away the means by which a far larger and more stable market could be provided for the products of South African agriculture and industry, products whose prices are now being artificially maintained, again in the interest or supposed interest of the white producer, at levels dangerously detrimental to the dietary and wellbeing of the impoverished millions. That, side by side with all this, there are genuine elements of trusteeship in Union native policy, especially in the work of the Native Affairs Department in the Native Reserves, that there are those who sincerely believe—and not merely as a matter of wishful thinking, that segregation is a genuine means of trusteeship, I would not for a moment deny; but that does not seriously qualify the picture which I have drawn. Trusteeship itself, as Professor Hoernle has pointed out in the lectures from which I have already quoted, is inevitably a poor and inadequate thing when it operates within a system of domination, and when, as the servant and instrument of that domination it fixes wardship as a permanent status from which the wards are intended never to escape. The real crux is the policy of domination itself, and I can see no signs or prospect of opinion moving in favour of its abandonment.

(B)
MINERALS
(1) Mining Concessions in Bechuanaland.

Y. 306/19. No. 97. PROOF.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 9th October, 1939.)

Bechuanaland Protectorate.

(No. 571.)

(Confidential.)

Sir, Pretoria, 25th September, 1939.

I have the honour to refer to your confidential telegram No. 118 of the 12th September*, and to transmit herewith a copy of a despatch from the Resident Commissioner of the Bechuanaland Protectorate forwarding copies of the Memorandum of Agreement between Chief Tshekedi Khama and Mineral Properties Investigations Limited, relating to prospecting and mining in the Bamanwato Reserve, in the form in which it was signed.

2. I shall be glad if you will formally signify your approval of the Agreement.

3. I attach a copy of the relative Crown Grant which I have signed.

I have, &c.,
W. H. CLARK,
High Commissioner.

Enclosure 1 in No. 97

~~No. 382/28.~~
~~DCM.~~
(Confidential.)

Sir, Resident Commissioner's Office, Mafeking, 16th September, 1939.

With reference to Your Excellency's confidential despatch No. 2285 of the 12th September and telegram No. 116 of the 13th September regarding the proposed grant to Mineral Properties Investigations Limited of a mineral concession over a portion of the Bamanwato Reserve, I have the honour to inform Your Excellency that the Memorandum of Agreement between Tshekedi Khama, Chief of the Bamanwato Nation, and Mineral Properties Investigations Limited, in the form approved by the Secretary of State was signed in my office at Mafeking on the 15th September.

2. I transmit herewith for the information of Your Excellency a copy of the note of the proceedings of the meeting at which the Agreement was signed, and a copy of the Memorandum of Agreement† in the form in which it was signed.

3. There is one slight variation between the signed Agreement and the draft approved by the Secretary of State, to which reference is made in the note of the proceedings of the meeting, viz., the omission of the word " other " after " royalties " in the third line of the last paragraph of clause 5.

4. Both parties desire to receive formal notification, in writing, of the Secretary of State's approval of the Agreement with effect from the date it was signed. I should be glad to know whether this should be done by me, or will be done by the Dominions Office.

5. Colonel Howard and the Chief have been handed copies of the draft of the Crown Grant in the form approved by the Secretary of State, a copy of which was forwarded under cover of Your Excellency's despatch under reference, and the amendments to the original draft have been explained to them. Colonel Howard and the Chief had no objections to raise and expressed themselves as agreeable to the issue of the Grant in the form approved by the Secretary of State.

I have, &c.,
C. N. A. CLARKE,
Resident Commissioner.

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* Y. 306/18: not printed. † Not printed here.

S.A.H.C. Territory—(C.38377/253) 6.

NOTE OF PROCEEDINGS OF MEETING HELD IN THE OFFICE OF THE RESIDENT COMMISSIONER AT MAFEKING, ON THE 15TH SEPTEMBER, RE BAMANWATO MINERAL CONCESSION.

Present:

MR. C. N. ARDEN CLARKE, Resident Commissioner.
MR. W. H. RUSSELL, Chief Mining Commissioner.
MR. G. E. NETTELTON, O.B.E., District Commissioner, Serowe.
LIEUTENANT-COLONEL A. C. HOWARD, D.S.O., M.C., M.I.C.E., Director of Mineral Properties Investigations Limited.
MR. A. J. P. WALTER, of Mineral Properties Investigations Limited.
CHIEF TSHEKEDI KHAMA of the Bamanwato.
E. G. SERETSE, of the Bamanwato.
K. MOTSHOLAKGETSE, of the Bamanwato.

Colonel Howard produced printed copies of the Memorandum of Agreement between Chief Tshekedi Khama and Mineral Properties Investigations Limited, ready for signature. The Resident Commissioner informed those present that the Secretary of State had approved by telegram (No. 117 of 12th September) the signature of the Agreement in the form of the draft sent to Mineral Properties Investigations Limited under cover of Dominions Office letter of 18th July, subject to certain amendments. The printed Agreement was checked with a draft of the Agreement in the form finally approved by the Secretary of State. It was necessary to make the following alterations in the printed Agreement:—

Clause 5, page 4, line 15, the words " (except diamonds) " were altered to read " excepting diamonds ".

Clause 9, page 5, the word " said " before " Grantee " in the first line was deleted.

One other variation between the printed Agreement and the draft as approved by the Secretary of State was found. In lines 2 and 3 of the last paragraph of Clause 5 on page 4 of the printed Agreement the phrase reads " any other or further royalties than those above set forth ". In the draft as approved by the Secretary of State the phrase is " any other or further royalties other than those above set forth ". It was agreed by all concerned that it was unnecessary to alter the printed Memorandum by the insertion of the word " other " after " royalties ".

Copies of a draft of the Crown Grant in the form approved by the Secretary of State were handed to Colonel Howard and the Chief and the Resident Commissioner described the changes that had been made from the original draft. Colonel Howard and the Chief had no objections to raise and expressed themselves as agreeable to the issue of the Grant in the form approved by the Secretary of State.

The Memorandum of Agreement was signed by Colonel Howard and Chief Tshekedi Khama and the alterations initialled.

The Resident Commissioner agreed that the following draft cable, which Colonel Howard proposed to send to Mineral Properties Investigations Limited, correctly set out the position:—

" On signing the agreement to-day with Chief Tshekedi Khama I was informed by the Resident Commisioner that the Secretary of State had formally approved the signing of the agreement and that our rights and obligations therefore begin from to-day's date."

The Resident Commissioner informed Colonel Howard and the Chief that written notification of the formal approval of the Secretary of State with effect from the date of the signing of the Agreement would be sent to them in due course.

Mafeking.
16th September, 1939.

Enclosure 2 in No. 97

CROWN GRANT.

Issued under the provisions of the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932, (No. 33 of 1932);

George the Sixth by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India;

Whereas the Chief and People of the Bamanwato Nation have entered into a Memorandum of Agreement with the Mineral Properties Investigations Limited, a Company incorporated in England, and having its Head Office in London, as will more fully appear from the copy of the said Agreement hereunto annexed marked " A ".

And whereas it is provided in Section thirty-nine (2) of the Bechuanaland Protectorate Mines and Minerals Proclamation No. 33 of 1932 (hereinafter referred to as the Proclamation) that no person shall prospect for or win diamonds on any Crown Land or Native Reserve unless he is the holder of a Crown Grant under Section 35 of the Proclamation;

And whereas application for such Grant has been made by Mineral Properties Investigations Limited for the right to prospect for and win diamonds on the Bamanwato Native Reserve;

And whereas the Chief and People of the Bamanwato Nation have recorded their consent to the issue of such Grant;

Now, therefore, I, William Henry Clark, in my capacity as His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland, do hereby grant to the said Mineral Properties Investigations Limited, (hereinafter referred to as the Grantee) the exclusive right to prospect for and win diamonds throughout the whole of the Bamanwato Native Reserve excluding the following areas:—

(*a*) That portion of the Reserve lying to the West of Longitude 26 E and North of Latitude 23 S, and

(*b*) That portion of the Reserve lying to the East of Longitude 26 E and South of Latitude 23 S;

subject to the following conditions, namely:—

(1) The rights and privileges hereby conferred shall be for the period stipulated for in the Agreement aforesaid and in consideration of such rights and privileges the Grantee shall pay the various amounts provided for in the aforesaid Agreement at such times and on such conditions as are more fully set out therein. The Grantee shall also pay to the Bechuanaland Protectorate Administration whatever rental, fees and royalties may be due in terms of the Proclamation and any amendment thereof and the Regulations thereunder and any amendments thereto, as and when such rental, fees or royalties fall due.

(2) (*a*) In the event of diamonds being discovered, either in the form of alluvial or pipe, during the course of the Grantee's prospecting operations, the winning of diamonds shall take place subject to such provisions of the Proclamation and any amendment thereof and the Regulations thereunder and any amendments thereto as are applicable to the winning of diamonds.

(*b*) There shall be no limitation as to the number of claims which the Grantee may peg within the said area.

(3) The Grantee shall supply the Bechuanaland Protectorate Administration with copies of all maps, plans of workings, geological surveys and prospecting records made or used in the course of its prospecting and mining for diamonds.

(4) Application for the registration of this Grant shall be made to the Registrar of Deeds for the Bechuanaland Protectorate within thirty (30) days from the date hereof, and failure to apply for such registration within such period shall render the rights conferred hereunder null and void.

(5) The Grantee shall have the right to terminate this Crown Grant on giving three months' notice in writing to the High Commissioner. On failure to pay the amounts due under the Proclamation on due date or on failure to fulfil any other condition hereof or of the Agreement aforesaid the High Commissioner may give notice to the Grantee of any such breach and if the Grantee does not rectify such breach within three months the High Commissioner shall have the right to cancel this Crown Grant.

Given under my hand and Seal at Pretoria this twenty-fifth day of September, 1939.

W. H. CLARK,
High Commissioner.

Registered under No. in the Register of Crown Grants, kept at Mafeking this day of , 1939.

Working Copy.

Y. 306/19. No. 98. PROOF.

DESPATCH

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

Bechuanaland Protectorate.

(No. 594.)

(Confidential.)

SIR, Downing Street, 22nd November, 1939.

With reference to your confidential despatch No. 571 of the 25th September*, I have the honour to transmit to you a copy of a letter which has been addressed to the Mineral Properties Investigations Limited conveying my approval of the Agreement between that Company and Tshekedi Khama relating to prospecting and mining in the Bamanwato Reserve on condition that the words "Bamanwato Territory" "Bamanwato Country" and "country", wherever they occur in the Agreement, are to be understood as meaning the Bamanwato Reserve as constituted at the date on which the Agreement was signed. This condition is similar to that on which the Agreement of the 21st March, 1932 with the British South Africa Company was approved in accordance with the suggestion in Sir Herbert Stanley's despatch No. 237 of the 15th April, 1932†.

2. I may explain with regard to the suggestion in paragraph 4 of the Resident Commissioner's despatch No. 382/28 of the 16th September that I was advised that approval could not effectively be given retrospectively. The payment of £1,500, which it is understood from Mineral Properties Investigations Limited was made on the date of signature, will no doubt be regarded as having been made in advance in satisfaction of the obligation of the Company under Clause 3 of the Concession.

I have, &c.,

ANTHONY EDEN.

Enclosure in No. 98.

GENTLEMEN, Downing Street, 21st November, 1939.

With reference to your letter of the 9th November I am directed by Mr. Secretary Eden to inform you that he approves the Agreement between Tshekedi Khama, Chief of the Bamanwato Nation, and the Mineral Properties Investigations Limited which was signed at Mafeking on the 15th of September, 1939. This approval is given subject to the condition that the words "Bamanwato Territory" "Bamanwato Country" and "country", wherever they occur in the Agreement are to be understood as meaning the Bamanwato Reserve as constituted at the date on which the Agreement was signed.

I am, &c.,

H. N. TAIT.

Mineral Properties
Investigations Limited.

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* No. ~~Y. 306/19.~~ 97.

† No. 29 in Dominions (South African) No. 5.

S.A.H.C. Territory—(C.38377/255). 6.

Enclosure 1 — No 97

Y. 270/1.

No. 99.

PROOF.

DESPATCH
from
HIGH COMMISSIONER FOR BASUTOLAND,
THE BECHUANALAND PROTECTORATE
AND SWAZILAND.
(Received 29th April, 1937.)

(No. 276.)

Cape Town, 17th April, 1937.

SIR,

With reference to your despatch No. 600 of the 17th December, 1936*, and previous correspondence, I have the honour to transmit herewith a copy of the Crown Grant to the De Beers Company of rights to prospect for and win diamonds in certain parts of the Bechuanaland Protectorate, which I have now signed.

2. I consulted the Resident Commissioner upon the points mentioned in your despatch, and I am advised that the Company had no objection to the amendment of Clauses 3 and 4 (1) as suggested in your despatch. As regards Clause 7 the Resident Commissioner stated that there was nothing in Roman Dutch Law that would preclude one person from stipulating for some benefit for another person without the authority of the latter, upon which stipulation such other person would be entitled to sue. Colonel Rey added that there was no mention of arbitration in the Certificate of Occupation referred to in paragraph 7 of your despatch, and on his recommendation, and with the consent of the Company, the last sentence of Clause 7 of the Crown Grant has been deleted.

3. I attach copies of Notices† which have been issued applying the Mining Law to the area of land in the Lobatsi District referred to in paragraph (*d*) of the Grant, declaring that area to be a Mining District, and appointing the District Commissioner of the Lobatsi District to act as a Mining Commissioner for the area.

I have &c.,
W. H. CLARK,
High Commissioner.

Enclosure 1 in No. 99

CROWN GRANT NO.

Issued under the provisions of the Bechuanaland Protectorate Mines and Minerals Proclamation, 1932, (No. 33 of 1932). George the Sixth by the Grace of God of Great Britain, Ireland, and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

WHEREAS it is provided in section thirty-nine (2) of the Bechuanaland Protectorate Mines and Minerals Proclamation, No. 33 of 1932 (hereinafter referred to as the Proclamation) that no person shall prospect for or win diamonds on any Crown Land unless he is the holder of a Crown Grant issued under section 35 of the Proclamation.

AND WHEREAS application for such Grant has been made by DE BEERS CONSOLIDATED MINES, LIMITED, for the right to prospect for and win diamonds on certain Crown Land hereinafter more fully described.

AND WHEREAS the British South Africa Company, the holder of certain preferential rights relating to prospecting and mining in the Bechuanaland Protectorate, has recorded its consent to the issue of such Grant.

NOW THEREFORE I, WILLIAM HENRY CLARK in my capacity as His Majesty's High Commissioner for Basutoland, the Bechuanaland Protectorate and Swaziland, do hereby grant to the said De Beers Consolidated Mines, Limited (hereinafter referred to as the Grantee) the exclusive right to prospect for and win diamonds on certain Crown Land situate in the Mining Districts of Ghanzi, Chobe, and Kgalagadi, and in the District of Lobatsi consisting of:—

(*a*) An area in extent 42,722 square miles as delineated on the sketch map attached, situate in the Mining District of Ghanzi which is bounded on the north by the Batawana Reserve, on the south by the northern and southern Protectorate boundary as described in High Commissioner's Notice No. 9 of 1903, on the west by South West Africa and on the east by the Bamangwato Reserve.

(*b*) An area in extent 7,918 square miles as delineated on the sketch map attached, situate in the Mining District of Chobe which lies south of the Chobe River bounded on the west by the Batawana Reserve, on the east by Southern Rhodesia and on the south by latitude 19° south.

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* No. ~~10141/256~~ 146 in Command.

† Not printed here.

~~S.A.H.C. Terr.—(C.28149/166).—24.~~ (South Africa) No. 6.

(*c*) An area in extent 40,122 square miles as delineated on the sketch map attached, situate in the Mining District of Kgalagadi which is bounded on the west by South West Africa and the Cape Province, on the south by the Molopo River, on the east by the Lobatsi District, the Bangwaketsi and Bakwena Reserves and from the north west corner of the Bakwena Reserve in a westerly direction along the southern boundary of the Ghanzi District.

(*d*) An area in extent 585 square miles as delineated on the sketch map attached, consisting of that portion of Crown Land in the Lobatsi District which is bounded on the east by the Barolong Farms, on the north by the Bangwaketsi Reserve, on the south by the Molopo River and on the west by Meridian 24° 15 minutes east longitude.

Subject to the following conditions, namely:—

1. This Grant is made subject to any rights affecting the land referred to and existing prior to the date hereof.
2. The rights hereby conferred shall be for a period of two years reckoned from the date hereof for which the Grantee shall pay in advance to the Bechuanaland Protectorate Administration a rental of £1,000 per annum.
3. During the period of this Grant and any extension thereof the Grantee undertakes to expend a sum of not less than two thousand pounds (£2,000) per annum on prospecting and exploratory work on the said four areas and shall furnish proof of having done so.
4. (1) In the event of diamonds being discovered, either in the form of alluvial or pipe, during the course of the Grantee's prospecting operations, the winning of diamonds shall take place subject to such provisions of the Proclamation and the Regulations thereunder and any amendments thereto as are applicable to the winning of diamonds, provided that if any diamond taxation other than that presently payable under the laws of the Bechuanaland Protectorate shall be levied during the currency of this Grant or any extension thereof, all amounts payable by the Grantee in respect thereof during that period in relation to the said four areas may be deducted from the rental payable under Clause 2 of this Grant, and that if the said amounts exceed that rental the High Commissioner shall reimburse the Grantee to the extent of such excess.

   (2) There shall be no limitation as to the number of claims which the Grantee may peg within the said four areas.
5. The Grantee shall supply the Bechuanaland Protectorate Administration with copies of all maps, plans of workings, geological surveys and prospecting records made or used in the course of its prospecting and mining.
6. Upon the expiration of the period for which this Grant is made the Grantee shall have the right to a renewal hereof for a further period not exceeding two years on the same terms and conditions, subject to such modifications and additions only as shall be mutually agreed upon.
7. The occupier of any land occupied under a Certificate of Occupation issued by the High Commissioner prior to the date hereof (a specimen copy of which is annexed hereto) and situate within the Mining District of Ghanzi, shall be entitled to compensation for any loss or damages caused to him by the prospecting or mining operations of the Grantee.
8. Application for the registration of this Grant shall be made to the Registrar of Deeds for the Bechuanaland Protectorate within thirty (30) days from the date hereof and failure to apply for such registration within such period shall render the rights conferred hereunder null and void.
9. This Grant may be cancelled without notice on failure of the Grantee to carry out the undertaking mentioned in Clause 3 or to comply with any of the conditions herein contained.

Given under my Hand and Seal at Cape Town this seventeenth day of April, 1937.

W. H. CLARK,

High Commissioner.

Registered under No. . . . . in the Register of Crown Grants kept at Mafeking this . . . . . day of . . . . . 193 .

Registrar of Deeds for the Bechuanaland Protectorate.

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BECHUANALAND PROTECTORATE
CERTIFICATE OF OCCUPATION

THIS IS TO CERTIFY THAT ..... is entitled to occupy a piece of land.....morgen more or less, situated in the..... District, and marked No..... on the general plan which is deposited in the Office of the Resident Commissioner, for the Bechuanaland Protectorate, and a copy of which is attached hereto; subject to the following conditions:—

I.—That a quitrent of.....shall be paid on the said land to such person as may be appointed by the Government to receive the same, such payment to commence on the ..... day of.....and thereafter to be made annually on the said.....day of.....

II.—That all roads and throughfares existing over the said land shall remain free and uninterrupted unless the same be closed or altered by competent authority.

III.—That the Government shall at all times have the right of entry on the land for such purposes as inspection and survey.

IV.—That if at any time it should appear to the Government upon petition of any adjacent or neighbouring occupier under a like certificate, that person requires a way or road of necessity to or from the land occupied by him, the Government shall have the power to grant such way or road of necessity and to point out the direction and width thereof, provided that compensation for the right of way and any damage done shall be paid by the person or persons for whose benefit and upon whose application the said road is made, the amount thereof to be determined by Government.

V.—That the Government or any person duly authorised by Government shall at all times have the power, without compensation, of making roads, railways, and railway stations, and of conducting telegraphs over, and of taking materials for making or repairing roads and railways from, and of making aqueducts, dams, and drains for the benefit of the public, and of establishing convenient outspans for the use of the public upon, any portion of the said land which has not been improved by cultivation, irrigation or otherwise; and shall further have the like powers in respect of any of the said land which has been improved by cultivation, irrigation or otherwise, on payment to the occupier of compensation for actual loss sustained.

VI.—That all rights to gold, silver, platinum, or precious stones, found or discovered at any time on the said land are reserved, together with the right of prospecting for the same, and a right of ingress to and egress from any mines or works undertaken for mining or prospecting purposes by any person or persons authorised by Government; and that the further right is reserved to Government to resume occupation of such land or portion thereof, and of the water supply thereof, as Government may deem to be necessary under or in connection with any mining agreement or concession which has been approved of or authorised by Government, or for the convenient working of mines or works for gold, silver, platinum, or precious stones: provided that, in case of such resumption, a like certificate of occupation in respect of land equivalent in extent and value shall be granted in place of this certificate, which shall be delivered up for cancellation; and in the case of land whereon improvements have been made, compensation for the beneficial value of such improvements shall be paid.

VII.—That the Government does not undertake to point out the beacons of the said land but the occupier shall be bound to the satisfaction of the Government, to have the limits thereof properly traced and marked by conspicuous and permanent beacons to be by him erected and kept in proper repair at all angles of the said land, and that the said land shall be further subject to all such duties and regulations, as either are already or shall in future be established respecting lands occupied on similar tenure.

Given under my hand and seal at Cape Town, this.....day of.....

High Commissioner.

Working Copy.

Y. 270/3. No. 100. PROOF.

DESPATCH

from

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 8th July, 1939.)

(No. 371.) [transmitted by No. 101]

(Bechuanaland Protectorate.)

Pretoria, 30th June, 1939.

SIR,

I have the honour to refer to my despatch No. 276 of the 17th April, 1937*, and previous correspondence regarding the issue of a Crown Grant to the De Beers Company of rights to prospect for and win diamonds in certain parts of the Bechuanaland Protectorate and to transmit herewith a copy of a despatch from the Resident Commissioner.

2. The Grant has been in force for the period of two years for which it was issued, during which time the areas covered by it have been prospected without, however, any payable diamondiferous deposit being discovered.

3. The Company were required under the Grant to pay to the Government a rental at the rate of £1,500 per annum, and to expend not less than £2,000 per annum on prospecting and exploratory work. Up to the present the Company have paid the rental for two years (£3,000) but they have expended only £2,970 on prospecting.

4. In all the circumstances I recommend that the balance (£1,030) payable by the Company should be waived and I shall be glad if that course may receive your approval.

I have, &c.,

W. H. CLARK,

High Commissioner.

Enclosure in No. 100.

Resident Commissioner's Office, Mafeking, 2nd May, 1939.

SIR,

With reference to Your Excellency's despatch No. 1095 of the 17th April, 1937, regarding the Crown Grant held by the De Beers' Company to prospect for and win diamonds in certain parts of the Bechuanaland Protectorate, I have the honour to inform Your Excellency that the De Beers Company has intimated that it is not prepared to exercise its right to renew the Crown Grant after 17th April, 1939. A copy of the Company's letter is enclosed for Your Excellency's information.

2. The termination of this Grant will mean a loss to the Government of revenue amounting to £1,500 a year.

3. Under clause 3 of the Crown Grant it is stipulated that the grantee shall expend a sum of not less than £2,000 per annum on prospecting and exploratory work and shall furnish proof of having done so. This, together with the rental of £1,500 per annum, amounts to £7,000 for the two years during which the grant has been in force. The sum actually expended falls short of this amount of £1,030 and the Company request that the Government will waive its right in regard to the expenditure of this amount.

4. As the Company can see little prospect of exploiting diamonds successfully in the areas prospected I do not consider that any good purpose can be served by insisting on the further expenditure indicated above, and I recommend their request be granted.

I have, &c.,

C. N. A. CLARKE,

Resident Commissioner.

His Excellency
The High Commissioner,
Cape Town.

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*No. ~~Y. 270/1~~. 99.

S.A.H.C. Territory—(C.35408/241). 24.

DEAR SIR, Kimberley, 31st March, 1939.

Crown Grant, Bechuanaland.

I am directed by my Board to express its regret that the De Beers Consolidated Mines, Limited, is not prepared to exercise its right for a renewal of the Crown Grant held by it in respect to diamonds over the districts of Chobe, Ghanzi, and Kgalagadi after the 17th April, 1939.

Some words in explanation of such an attitude may prove of service to your Administration.

For many years past rumours have been prevalent of the presence of diamonds in the Protectorate, and, though the accuracy of such statements was generally doubted, they ultimately led my Company to negotiate for and acquire Crown Grants over:—

(*a*) the Bamangwato and Bakwena Reserves, and

(*b*) over the Chobe, Ghanzi and Kgalagadi districts.

The practical tests made of likely deposits in those areas proved, however, disappointing. As you are aware, the Geological Formations in the Protectorate are extensively covered by sand or limestone, which in places attains a considerable thickness, and prospecting work must necessarily be confined to isolated rock exposures in the sandveld and to the beds of the few dry rivers.

In the area immediately concerned rock outcrops are restricted to a few spots near Pitsani, Tsabong and Ghanzi and to the channels of the Molopo, Nossob and Limyanti, all else consists of deep sand. Washing operations have had to be limited to the Molopo channel at Pitsani, since nothing of promise was located elsewhere through the geological reconnaissances made within this immense region.

Visits were specially made to two key spots, namely to Mpatutlwa Pan north of Tsabong, and to Lojane Pan to the south of Olifants Kloof, which respectively formed the raison d'etre for certain alleged discoveries by one, Crawford, and one, Botes, recently. Some geological grounds were thereupon found for such reports, the formation in each case being liable to raise undue hopes in anyone having a limited acquaintance with alluvial diamond diggings, though at the same time supplying just the required setting for a plausible swindle. The alleged discovery of diamonds is in each case strongly doubted, and probably there will be similar reports appearing in the future.

While the sums expended by my Company during the two years fall short of the guaranteed amount of £7,000 by £1,030, it is trusted that your Administration will generously waive its rights in that respect. To insist thereon would, in the opinion of the Company's technical advisers, merely mean the wasting of good money, while as it happens there is just a possibility of making use of such unexpended balance in investigating certain rumours of diamonds in the Batawana Reserve, not yet open to prospecting.

My Board deeply regrets the severe limitations set by nature that have compelled it to surrender this Crown Grant, but for the present it feels dubious regarding the existence of payable diamondiferous deposits, such as have been alleged. If such do occur, they must either be deeply buried beneath sand or else so situated that only chance observation will discover them.

Incidentally, it might be remarked that a policy of throwing open the areas in question to prospectors generally may not prove an unmixed boon to the Administration. Such a course would undoubtedly attract persons of an undesirable class, who, through hinting at their knowledge of rich finds in remote corners of the Protectorate, would lead to swindles being perpetrated and cause trouble and expense to your Administration, the police and native peoples. One can merely instance the cases of Heckle and Crawford during the past few years.

In conclusion, my Board desires to express its cordial thanks for the great assistance rendered during its investigations and operations by you and your officers, more especially the District Commissioners of the several areas concerned, who have been ever ready to supply valuable information about little known and not easily reached parts of the country, as well as through aiding in various other ways.

Yours, &c.,

H. F. LABDNER BURKE,
Secretary.

The Resident Commissioner,
Bechuanaland Protectorate,
Mafeking.

Y. 270/3. No. 101. PROOF.

DESPATCH

to

HIGH COMMISSIONER FOR BASUTOLAND, THE BECHUANALAND PROTECTORATE AND SWAZILAND.

(Bechuanaland Protectorate.)

(No. 359.)

SIR, Downing Street, S.W.1, 20th July, 1939.

I have the honour to acknowledge the receipt of your despatch No. 371 of the 30th June*, and to state that I agree that the balance of £1,030 payable by the De Beers Company on prospecting and exploratory work in connexion with their Crown Grant over certain parts of the Bechuanaland Protectorate may be waived.

I have, &c.,

T. W. H. INSKIP.

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*No. ~~Y. 270/2~~ 100.

S.A.H.C. Territory—(C.35408/240). 24.

Y. 586/1.

No. 102.

PROOF.

TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 10.15 p.m., 4th February, 1937.)

[*Answered by No.* ~~104~~ 105.]

No. 24. Confidential. Your semi-official letter of 9th March* and connected correspondence. High Commissioner for the Union of South Africa has communicated to us text of telegram from Union Government referring to statement in local Press the company styled "Swaziland Settlement Corporation" (which appear to be a Johannesburg organization) has been formed with object of facilitating immigration of Jews into Swaziland and had obtained option on large tract of land on which they intend to settle Jews who now as a result of Union laws cannot enter Union. It appears that questions are being put in Union Parliament on subject to which reply has to be given at early date and the High Commissioner was instructed to ascertain whether we know anything of matter and are in a position to prevent execution of such a plan which is strongly objected to by Union Government. High Commissioner has been told that we have no information, and it has been suggested that Union Government should place themselves in touch with you. Should be grateful for any information which you may have on subject. If statement is to be regarded seriously it may be necessary to consider passing of further legislation forthwith on subject of immigration and I should be glad to receive your recommendations on this point. Details of recent Union Immigration Bill are not yet available here. Should be grateful for early reply.

* F. 20741/27: not printed.

S.A.H.C. Terr.—(C.27774/163). 24.

P6.

Y. 586/1. No. 103. PROOF.

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TELEGRAM

to

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Sent 10 p.m., 4th February, 1937.)

(Paraphrase.)

No. 25. Secret. Reference my immediately preceding telegram*. You should know that it is stated in the telegram from the Union Government and the Union High Commissioner in London regarding Jewish Settlement in Swaziland that if His Majesty's Government in the United Kingdom are unable to do anything to present plan an early transfer to the Union of the administration of Swaziland would appear to be only other solution.

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* No. ~~Y. 586/1.~~ 102.

S.A.H.C. Terr.—(C.27774/164) 24.

Y. 586/2. No. 104. PROOF.

TELEGRAM

from

HIGH COMMISSIONER FOR BASUTOLAND, BECHUANALAND PROTECTORATE AND SWAZILAND.

(Received 3.29 p.m., 5th February, 1937.)

No. 24. Confidential. 5th February. Your telegram No. 24 of 4th February*. Statement regarding Jewish settlement in Swaziland projected by the so called "Swaziland Settlement Corporation" appeared in *Die Burger* on the 2nd February. I had no information about the "Corporation" and asked His Majesty's Trade Commissioner to ascertain what persons were behind the Corporation and to obtain any further information about its activities. Trade Commissioner has not yet obtained the information. Enquiries were also made semi-officially through the Union Department of Interior who had no information, and simultaneously that Department consulted my Office as regards the line of reply to two questions put down for to-day in the House of Assembly by Erasmus prominent younger member of the Malanite Party.

I agree that we should have power to control immigration of aliens into the Territory and in fact circularized the Resident Commissioners ten days ago asking their views as to the practicability of legislation on the lines of the new Union Act, as to which see my despatches No. 25 of 21st January† and No. 41 of 1st February‡. Subject to the Resident Commissioners' views I favour taking similar powers, though important changes would be required as to test qualifications, etc., in order to meet our different conditions and to keep clear of anti-Semitism. If enquiries indicate that the Corporation is substantial I shall get in contact with them immediately and endeavour to dissuade them from the enterprise of this kind as we have managed successfully to do in similar cases before. If they insist I may have to approach you about taking immediate powers. But the whole thing may prove to be a mare's nest.

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* No. ~~Y. 586/2.~~ 102.

† M. 302/4: not printed.

‡ M. 302/5: not printed.

S.A.H.C. Terr.—(C.27774/165). 24.

PART II

CORRESPONDENCE

1937 - 1939

relating to

SOUTHERN RHODESIA

CLOSER ASSOCIATION OF THE RHODESIAS AND NYASALAND.

R. 8/18. No. 105. PROOF.

MR. MALCOLM MacDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

MR. G. M. HUGGINS (PRIME MINISTER OF SOUTHERN RHODESIA).

(Confidential.)

DEAR MR. HUGGINS, Downing Street, S.W.1, 28th July, 1937.

Mr. Ormsby Gore and I undertook when we discussed with you in London the general question of the closer association or co-operation of the Rhodesias and Nyasaland, to consider the matter further in consultation with our colleagues, and I promised that I would then communicate with you again on your return to Southern Rhodesia.

We have now consulted the Cabinet accordingly, and as I think you will have expected from our talks in London, the view of the United Kingdom Government is that amalgamation of the Territories cannot be regarded as practical politics at the present time. The Government feel that they cannot contemplate the relinquishment of their responsibilities in regard to the native inhabitants of Northern Rhodesia and Nyasaland in their present stage of development, and indeed they are confident that any such action would be quite unacceptable to Parliament. At the same time we should be very ready, subject to the above condition, to examine the possibility of extending association or co-operation between the Territories in other matters and by other means. Such an investigation need not necessarily exclude the possibility of closer association in the political sphere, though it must be admitted that any form of closer political association between a self-governing Colony and Territories in regard to which the Secretary of State for the Colonies would continue to have a special responsibility to Parliament, would appear to be very difficult, if not impossible, to devise.

When we discussed the matter with you in London, the suggestion was put forward that a Commission might be appointed to advise as to how far the promotion and extension of such closer association or co-operation was desirable and feasible. It may be, of course, that if actual amalgamation is excluded from the scope of such a Commission you may feel that the question is one the further examination of which could be adequately undertaken by the three Governments in consultation. If so, we should be very ready to consider any suggestions for such examination. If, on the other hand, you consider that it would be of value for a Commission to be sent from this country to report on the matter, we should be glad to make arrangements accordingly. In that case, we feel that it would be important to explain, in a statement attached to the actual terms of reference of any such Commission, the general object and scope of its work in order that it might be clear from the outset that amalgamation of the Territories was not in contemplation. I enclose a draft showing the kind of statement and terms of reference which we think might be suitable.

I should be grateful for your views on the subject as soon as you have been able to consider the matter in consultation with your colleagues. If you should feel that there would be advantage to be gained by the appointment of a Commission from this country we should be quite prepared, in accordance with the wish you expressed in London, to let you know, before setting up the Commission, whom we had in mind as its members. Our present view is that it might suitably consist of, say, five persons, of whom three would be Members of Parliament representative of the principal Parties. It would hardly be practicable, I imagine, for a Commission to leave until after Christmas, and it would seem desirable that before they present a report they should have available the reports of the Economic Commissions which are proceeding to Northern Rhodesia and Nyasaland, and also Lord Hailey's report on his African survey. These reports should be available, I hope, early next year.

I am writing to you semi-officially in this way in order that we may have an indication of your wishes before we send any official communication. We would propose to place our views on record later in an official despatch.

Mr. Ormsby Gore is sending a copy of this letter to Sir Hubert Young and Sir Harold Kittermaster for their personal information but he does not propose to take any further action as regards Northern Rhodesia and Nyasaland until we have heard from you. A copy of this letter is being sent privately to Sir Herbert Stanley also for his information. If you should think it desirable to communicate with Sir Hubert Young before replying we should have no objection.

Sir Harold Kittermaster is still in this country.

Yours, &c.,

MALCOLM MacDONALD.

Southern Rhodesia—(C.26627/20). 24.

Enclosure in No. 105.

DRAFT STATEMENT.

It will be recalled that in 1931 His Majesty's Government in the United Kingdom had under consideration the question of the relationship between Southern and Northern Rhodesia. As announced in both Houses of Parliament on the 2nd July of that year by the Secretaries of State for Dominion Affairs and for the Colonies, the view of His Majesty's Government at that time was that for some time to come Northern Rhodesia should continue to work out its destiny as a separate entity, observing the closest possible co-ordination with its neighbours, and especially with Southern Rhodesia.

In the course of the last few months His Majesty's Government have had the opportunity of discussing with the Prime Minister of Southern Rhodesia, with the Governor and two unofficial members of the Legislative Council of Northern Rhodesia, and with the Governor of Nyasaland, the position as it has developed since the announcement of 1931 was made.

As the result of these discussions His Majesty's Government have reached the conclusion that subject to the maintenance of their responsibility, as it now stands in each of the three Territories concerned, for the interests of the native inhabitants, consideration should be given in detail to the possibility of the further promotion of closer co-operation or association between Southern Rhodesia, Northern Rhodesia and Nyasaland. Some of the subjects which suggest themselves for examination are transport and communications, scientific and technical research and services, labour, especially the inter-territorial migration of labour, trade and economic policy, judicial arrangements, defence, and, so far as international obligations affecting the Territories permit, customs duties.

In accordance with the wishes of the Government of Southern Rhodesia, and after consultation with the Governors of Northern Rhodesia and Nyasaland, His Majesty's Government in the United Kingdom propose to advise His Majesty to appoint a Royal Commission to visit the Territories concerned. The terms of reference of the Commission will be as follows:—

> To enquire and report whether any, and if so what, form of closer co-operation or association between Southern Rhodesia, Northern Rhodesia and Nyasaland is desirable and feasible, with due regard to the interests of the European and native inhabitants of the Territories concerned and to the maintenance of the responsibility, as it now stands in each of the three Territories, of His Majesty's Government in the United Kingdom for the interests of the native inhabitants.

R. 8/38. No. *106.* PROOF.

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 11 p.m., 1st November, 1937.)

(Paraphrase.) [*Answered by No. 107.*]

No. 103. Secret. Should be glad if you will inform your Prime Minister that his letter of the 23rd August* regarding the question of the closer association of the Rhodesias and Nyasaland has been considered by the Cabinet and that we are now prepared to agree that the proposed Commission should be free to review the whole position, including the question of possible eventual amalgamation, though we feel that we must make it clear that this must not be regarded as meaning that His Majesty's Government in the United Kingdom see any likelihood of their being able to depart, at any rate in the near future, from their view as to the necessity of maintaining their present responsibility in relation to Native policy in each of the territories concerned. In the circumstance we are willing to accept modifications in the draft explanatory statement and terms of reference proposed by your Prime Minister, though in the latter we propose to substitute for the words "the European and Native inhabitants" the phrase "all the inhabitants irrespective of race". If the appointment of a Commission on the basis proposed would be in accordance with the wishes of your Ministers necessary arrangements will be proceeded with and a further communication will be sent to you as to these and as to a suitable date for making a public announcement.

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* R. 8/35, not printed.

S. Rhodesia—(C.28542/33). 24.

R. 8/42. No. 107. PROOF.

TELEGRAM

from

SOUTHERN RHODESIA GOVERNMENT.

(Received 2.19 p.m., 4th November, 1937.)

[Summary by No. 105]

(Paraphrase.)

No. 100. Secret. 4th November. Your telegram No. 103 secret of the 1st November*. I have been asked by my Prime Minister to inform you that he has consulted his colleagues regarding the Commission proposed in your telegram, and that Ministers consider that its appointment would be regarded favourably by them.

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* ~~R. 8/38: not printed.~~ No. 106.

S. Rhodesia—(C.27711/24). 24.

86.

R. 8/42. No. 108. PROOF.

133

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 8 p.m., 20th November, 1937.)

(Paraphrase.)

No. 109. Secret. Your telegram No. 100 of 4th November*. Text of statement which Lord Hartington will make in House of Commons on Tuesday, 23rd November, is contained in my immediately following telegram†. (I expect to be at Brussels myself on that day.) Statement will take form of an answer to an arranged question at approximately 3 p.m. G.M.T. on that day. No doubt your Ministers will wish to arrange for simultaneous publication in Southern Rhodesia. Arrangements are being made for simultaneous publication also in Nyasaland and Northern Rhodesia.

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* No. ~~R. 8/42.~~ 107.

† No. ~~R. 8/43.~~ 109.

S. Rhodesia—(C.27711/23). 24.

R. 8/42. No. 109. PROOF.

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 9 p.m., 20th November, 1937.)

No. 110. Confidential. Following is text of Question and Answer referred to in my immediately preceding telegram:—

Begins.—

Question.—To ask the Secretary of State for Dominion Affairs whether he is now in a position to make a statement regarding the question of closer relations between Southern and Northern Rhodesia and Nyasaland.

Answer.—It will be recalled that in 1931 His Majesty's Government in the United Kingdom had under consideration the question of the relationship between Southern and Northern Rhodesia. As announced in both Houses of Parliament on the 2nd July of that year, by the Secretaries of State for Dominion Affairs and for the Colonies, the view of His Majesty's Government at that time was that for some time to come Northern Rhodesia should continue to work out its own destiny as a separate entity, observing the closest possible co-ordination with its neighbours and especially with Southern Rhodesia.

In the course of the last few months, His Majesty's Government have had the opportunity of discussing with the Prime Minister of Southern Rhodesia, with the Governor and two unofficial members of the Legislative Council of Northern Rhodesia, and with the Governor of Nyasaland, the position as it has developed since the announcement of 1931 was made.

As the result of these discussions, His Majesty's Government have reached the conclusion that with due regard to their special responsibility for the interests of the Native inhabitants consideration should be given in detail to the possibility of the further promotion of closer co-operation or association between Southern Rhodesia, Northern Rhodesia and Nyasaland. Some of the subjects which suggest themselves immediately for examination are transport and communications, scientific and technical research and services, labour, especially the inter-territorial migration of labour, trade and economic policy, judicial arrangements, defence, and, so far as international obligations affecting the territories permit, customs duties.

In accordance with the wishes of the Government of Southern Rhodesia, and after consultation with the Governors of Northern Rhodesia and Nyasaland, His Majesty's Government in the United Kingdom propose to advise His Majesty to appoint a Royal Commission to visit the territories concerned. The terms of reference of the Commission will be as follows:—

"To enquire and report whether any, and if so what, form of closer co-operation or association between Southern Rhodesia, Northern Rhodesia and Nyasaland is desirable and feasible, with due regard to the interests of all the inhabitants, irrespective of race, of the Territories concerned and to the special responsibility of His Majesty's Government in the United Kingdom for the interests of the Native inhabitants."

It is not yet possible to announce the names of the Commissioners, but it is expected that the Commission will leave this country in the early part of next year.

I may add that, in accordance with the procedure adopted in 1931, my Right Honourable Friends the Secretary of State for Dominion Affairs and the Secretary of State for the Colonies have been in consultation with the leaders of the Labour and Liberal parties and are glad to find that the procedure which His Majesty's Government have in contemplation commends itself to them.—*Ends.*

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* No. ~~R. 8/42.~~ 108.

S. Rhodesia—(C.27711/22). 24.

CONSTITUTION OF SOUTHERN RHODESIA. AMENDMENT. INTRODUCTION OF NATIVE COUNCILS

R. 27/2. ~~No. 110.~~ PROOF.

DESPATCH

from

SOUTHERN RHODESIA GOVERNMENT.

[*Answered by No.* ~~R. 27/2~~ 111.]

(No. 21.) (Received 5th February, 1937)

SIR, Salisbury, 27th January, 1937.

With reference to my telegram No. 4 of the 26th January* on the subject of the proposed amendment to the Southern Rhodesia Constitution, I have the honour, at the instance of my Ministers, to transmit a copy of a memorandum prepared by the Minister of Justice embodying the views of my Government on the subject of the proposed introduction in Southern Rhodesia of Native Councils.

I have, &c.,

A. F. RUSSELL,

Acting Governor.

Enclosure in No. 110.

MEMORANDUM WITH REFERENCE TO THE INTRODUCTION OF NATIVE COUNCILS

It is the intention of the Government gradually to introduce a system of Native Councils in the native areas. Originally it was proposed to do this under section 47 of the Southern Rhodesia Constitution Letters Patent, 1923, as amended by the Southern Rhodesia Constitution (Amendment) Letters Patent, 1931. In my opinion this section, even with the proposed amendments, is not wide enough to authorize the introduction of the scheme at present envisaged.

I understand that it was intended in the section to convey the widest powers but, if the matter were brought before a court of law, the court would, of course, be confined to the wording of the section and could not seek the intention underlying its provisions in extraneous documents. As it stands, I do not think it would be competent to confer upon councils created under the section the power to legislate by bye-law, since the power to legislate is not ordinarily included in "management", or the power to impose a levy or rate. Both of these powers it is desired, subject to due safeguards, to vest in the councils.

Since there exists this doubt as to the limits of section 47, I feel that the position should be clarified before the matter proceeds. The native is somewhat litigiously inclined, and, if councils are established and subsequently their authority is shaken by a decision of the courts, the repercussions might be far reaching and the reaction on the whole system serious. My own view is that the Government should proceed by means of an Act of the Legislative Assembly on the broad lines of Act No. 23 of 1920 of the Union of South Africa. A bill could be brought before the House at the October Session of this year and would, I am confident, be passed without undue opposition.

The alternative method would be to proceed by an elaboration of the proposed amendments to the Constitution in the projected Letters Patent. There are a number of objections to this course. Chief among these is the fact that I believe the placing of a bill before the local Assembly would have the effect of enlisting the sympathy and support of the white populace on behalf of the proposed system of councils. The procedure by Letters Patent at the instance of the Executive might well have the contrary effect.

An obstacle in the way of proceeding by Act of the House of Assembly lies in the fact that the proposed Act might be regarded as conflicting with section 47 of the Southern Rhodesia Constitution Letters Patent, 1923, as amended, and so invalid in terms of section 26 (2) and (3). I would therefore suggest that the Secretary of State be approached with the suggestion that when section 47 and the amending Letters Patent of 1931 are repealed they should not be re-enacted. This would leave the way open to the proposed legislation. I do not think there could be any objection to this proposal. Section 47 is an enabling section and its disappearance could cause no prejudice to the natives. Further the Act which it is proposed to take its place would be reserved legislation and would be submitted for comment and acceptance in due course. I think that the repeal of section 47 of the Letters Patent, followed by the introduction of the projected Act in the House of Assembly is the most satisfactory manner in which a comprehensive system of Native Councils can be established upon an unassailable basis.

R. C. TREDGOLD,

Minister of Justice.

26th January, 1937.

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* R. 27/1: not printed.

S. RHODESIA.

~~Constitutional Relations~~ (C.25166/894). 24.

B. 27/2. No. 111. PROOF.

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 12.30 p.m., 19th February, 1937.)

No. 16. Your despatch No. 21 27th January*. I am prepared in the circumstances to agree to repeal of section 47 of Letters Patent and the draft Letters Patent will accordingly be submitted to His Majesty in Council at next meeting of Council with omission of this section.

S. RHODESIA. * No. ~~R. 27/2~~. 110.

~~Constitutional Relations~~ (C.25166/895). 24.

R. 27/5. No. 112. PROOF.

MR. E. G. MACHTIG (DOMINIONS OFFICE)

to

SIR HERBERT STANLEY (GOVERNOR OF SOUTHERN RHODESIA).

(Personal and Confidential.) [Answered by No. R. 113/37]

MY DEAR STANLEY, Downing Street, S.W.1, 5th July, 1937.

Since the close of the Imperial Conference the Secretary of State has had talks with Mr. Huggins about various matters. One of these was the Native Councils Bill. I enclose for your information a copy of a Note which was sent to Mr. Huggins after the discussion on this question, recording the main points raised by the Secretary of State in connexion with the Bill. Mr. Huggins told the Secretary of State at the next meeting that he had sent this Note to Mr. Tredgold for consideration and had informed him that he was disposed to agree generally with the suggestions made in it. You will see that the Note includes some of the points which you mentioned in your very helpful letter to Harding of the 5th May*. I may mention that in the course of the discussion on this subject, the Secretary of State suggested that it would be a useful step if arrangements could be made for some officers of the Southern Rhodesian Native Department to visit Kenya and the Tanganyika Territory to see how the Native Councils worked there. Mr. Huggins promised to consider this possibility, and the Secretary of State hopes that it will, in fact, prove feasible, especially as Mr. Huggins said that some of his Native Commissioners were rather limited in their outlook and had expressed themselves as doubtful of the prospects of the Native Councils functioning successfully in Southern Rhodesia.

There was also some discussion on the question of the Native franchise in Southern Rhodesia, in regard to which Mr. Huggins had sent the Secretary of State a Note, of which I enclose a copy. (This Note consists of comments on the passage in your Memorandum of the 26th October† last about amalgamation which deals with this matter). The Secretary of State explained to Mr. Huggins that he felt that it would be impossible to abolish the present system of Native franchise unless an effective substitute could be provided, and that this appeared to depend largely upon how the system of Native Councils developed and upon the practicability of establishing in due course a general Native Council for the whole Territory. Mr. Huggins appeared to accept this view, but said that the matter might become urgent at any moment and would quite possibly be raised in the Assembly when the new Electoral Bill which had to be introduced later this year came up for discussion. He proposed that if the matter was raised he should say that, as soon as it was shown that the Councils were working successfully, the law relating to the Native franchise would be amended, but the Secretary of State pointed out that this would constitute rather an awkward pledge and that it would be better merely to say that the question of the revision of the law would then be considered.

The Secretary of State also pointed out that the success of the Councils would very largely depend upon having good administrative officers in the Native Department, and there was some discussion as to whether it would be practicable to recruit a certain number of officers from this country or possibly to lend some Colonial Officials to Southern Rhodesia from time to time. Mr. Huggins said that the real difficulty in regard to recruitment from here is that the scales of pay are lower in Southern Rhodesia than in the Colonial Service, but it was agreed that the matter should be looked into further.

He will write to you separately in regard to the discussions which have taken place between the Secretary of State and Mr. Huggins as to the Bill to amend the Industrial Conciliation Act.

Yours, &c.,

E. G. MACHTIG.

Enclosure 1 in No. 112.

NOTES ON POINTS RELATING TO DRAFT NATIVE COUNCILS BILL.

1. Clause 10 of the Bill provides that the revenue of a Council " shall consist of such grants, donations and fees as may from time to time be paid to it or be payable to it ". Under the corresponding Kenya Ordinance, the Councils have the right to pass a resolution (which requires the approval of the Governor in Council) for the imposition of rates to be levied on the native inhabitants of the area concerned and they can

* R. 27/6: not printed. † R. 3/3: not printed.

Southern Rhodesia—(C.27711/30). 24.

establish Local Native Funds to be used subject to the control of the District Officer for suitable objects. This arrangement, which places on the Council responsibility for raising some of the Funds which they expend, is regarded by the Colonial Office as an important element in the whole system and it is for consideration whether some provision on similar lines might not be included in the Southern Rhodesia Bill.

2. The wording of clause 5 which describes the Native Commissioner as being the "local executive Officer" of the Council does not seem altogether appropriate, since it suggests that the Native Commissioner is to be placed in a position of subordination to the Native Council.

3. It is noted that under clause 3 Native Councils are not to be established in any area within the jurisdiction of any local authority. It is understood that the Government would not have jurisdiction in such a matter in the townships but that the possibility will be considered of including a provision which would enable the Municipalities to establish Councils if they so desired.

4. Under Clause 7 of the Bill the bye-laws of the Councils will be binding only upon natives. As natives in the townships are subject to the bye-laws of the Municipalities it would be logical that the bye-laws of the Native Councils should be applicable to Europeans residing in the native areas. It is gathered that difficulty is felt in subjecting Europeans to penalties under bye-laws made by a Native Authority but some provision for their enforcement by the Native Commissioners might be feasible.

Enclosure 2 in No. 112.

COMMENT ON SIR HERBERT STANLEY'S MEMORANDUM.

Sir Herbert points out the possibility of the numbers of Native voters becoming considerably enlarged through Natives, becoming landowners in the Native Purchase Area, exercising the vote. He then states that should the number become large enough for the native vote to exercise a decisive influence in elections, the common roll would not, in practice, work, and the qualification of voters would be raised so as, virtually, to deprive Natives of the franchise, or means would be taken of preventing them from voting.

A further point not mentioned by Sir Herbert is that even if the number of Natives who could qualify for the Vote under the present Electoral Laws were to increase to such an extent that the Native vote did exercise a decisive influence in elections, the Native voter would be the educated town native, in many cases aliens, and the land-owning class, neither of which class would be at all representative of the bulk of the indigenous Natives who live in reserves. So that under our present Electoral laws we are progressing towards a position where either the Native franchise will be excluded by the means indicated by Sir Herbert or elections will be decisively influenced by a Native electorate, which will not be at all representative of the Natives in the Reserves, who are the very ones whose interests it is chiefly desired to safeguard.

This contingency may seem a long way off, but there is an intermediate stage with its own evils which may come about quite soon. If an appreciable number of Natives are put on the roll then even long before there is any fear of Native domination at elections a state of panic among Europeans might ensue. The Native Voters would inevitably form a "Native Party" and the tendency of European voters would be to become strongly anti-Native in self-defence. Any candidate who evinced sympathy with the Native would be suspected of pandering to their vote and would be opposed by most, if not all European voters.

As there are, I believe, only about 20,000 European Voters, it would take only a very small and probably quite unrepresentative percentage of the million and a quarter Natives to become voters in order to create this situation.

Obviously the interests of the Native in the Reserves, who have under our present laws, no practical possibility of qualifying for a vote or even of being properly represented by voters of their own colour, will be far better served if the fear of the European being dominated by a handful of "educated" Natives is removed.

R. 27/8. No. 113. PROOF.

SIR HERBERT STANLEY (GOVERNOR OF SOUTHERN RHODESIA)

to

SIR EDWARD HARDING (DOMINIONS OFFICE).

(Received 9th August, 1937.)

(Confidential.) [Ans. 114 No. R. 27/8]

MY DEAR HARDING, Salisbury, 30th July, 1937.

With reference to Machtig's confidential letter of the 5th July* communicating to me a copy of a Note which was sent to my Prime Minister in London after his discussion of our draft Native Councils Bill with the Secretary of State, I enclose, for Mr. MacDonald's consideration, a copy of a letter which Huggins has addressed to me.

I gathered from Bullock, in the course of informal conversation some little time ago, that he was very seriously apprehensive of including at this stage any provision for the conferment of taxing powers on the Councils. He thought that such a provision would alarm the natives and prejudice the prospect of applications being made (in terms of clause 3 (3) of the Bill) for the establishment of Councils. In his opinion it would be wise to let any question of taxing powers stand over until the Council system had taken root and was working satisfactorily.

As regards the question of Councils in Municipal areas, I have nothing to add to my remarks upon clause 3 of the Bill in my letter of the 5th May† to you.

As regards the application of by-laws made by the Councils to Europeans in the native areas, I adhere to the opinion expressed in my observations on clause 7 in the above-mentioned letter, that it would not be advisable to press this point, for the present at any rate.

You will note that the Government is anxious to publish the Bill as soon as possible. I shall be grateful therefore if you will kindly send me a reply by telegraph.

Yours, &c.,

H. J. STANLEY.

Enclosure in No. 113.

MY DEAR GOVERNOR, Salisbury, 28th July, 1937.

In regard to the enclosed copy of Notes on points raised to draft Native Councils Bill sent to my Private Secretary in London by Mr. Malcolm MacDonald's Private Secretary, and subsequently discussed at the Dominions Office:

Will you please inform the Secretary of State that after discussing the matter with the Minister of Justice and the Secretary of Native Affairs, we have decided not to make provision for taxation, *vide Note 1*, the reason being that we fear that the Native may suspect increased taxation, and not help us in the formation of the Councils. It is not likely that the Native would suspect this on his own, but our local Creech Jones', etc., would soon stir him up, and they would probably raise the point at Home. We prefer to get the Councils going, and as and when they require increased facilities and funds, the Natives themselves will ask for these powers; then, objectionable as the amending of recent legislation is, it will have to be faced. We note of course that the Secretary of State considers power to tax should be included, and we shall give the power as early as we consider it advisable. Further, our proposals will not leave the Councils impotent in regard to finance.

Apart from Native Trust Funds and revenue from sources such as dipping, etc., we have it in mind that grants from the direct taxation of Natives may be made, but not until they have proved themselves.

In regard to *Note 2*: we think that the words "local Executive Officer" should be deleted, and it should be stated that executive powers shall be vested in the Native Commissioner.

Note 3: This matter has been discussed at length, and apart from the fact that the Government have no jurisdiction, we do not wish, by interfering now, to alienate the sympathy of the Municipalities, who are reacting fairly well at present to our suggestions for improving their locations. The proposed Act is for Native areas: the location

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* No. ~~R. 27/5.~~ 112.

† R. 27/6: not printed.

Southern Rhodesia—(C.27711/32). 24.

community is migratory and no chiefs live there. Further, we would prefer, and hope to induce the Municipalities in the first instance to set up Advisory Boards on the lines we have adopted in certain Native areas. These Boards make an excellent nursery for Council ideas, although, so far, they have not been a conspicuous success.

When the time is ripe, legislation for Native Urban Location Councils will be required, or the Native Urban Locations Ordinance can be amended and provide for Councils.

In regard to *Note 4*, under " other legislation " the Chief Native Commissioner has ample power to deal with white offenders in Native areas, including cancellation of trading-site leases, expulsion from the Reserves, etc.

You will see from this that we wish the Bill to go forward as drafted, with the one amendment, and I would like to publish it soon.

Yours, &c.,

G. MARTIN HUGGINS.

His Excellency
Sir Herbert Stanley, G.C.M.G.

R. 27/8.

No. 114.

PROOF.

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 7 p.m., 8th September, 1937.)

Personal and Confidential. Following from Machtig:—

Begins.—Your letter to Harding of the 30th July* about Native Councils Bill. While the Secretary of State is sorry that Mr. Huggins does not feel it possible to give effect to the main suggestions made in the Note sent to him when he was in this country, he does not wish to press the points further at this stage, and in the circumstances he sees no objection to the publication of the draft Bill. The Secretary of State notes that Mr. Huggins would be prepared to consider further question of the grant to the Native Councils of the power to levy taxation on natives when the natives themselves ask for it, and hopes that in any case the matter will be kept carefully in mind.—*Ends.*

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* No. ~~R. 27/8.~~ 113.

Southern Rhodesia—(C.27711/31). 24.

MOZAMBIQUE

Channel of Communication between Salisbury and Lourenço Marques

R. 171/6. No. 115. PROOF.

SIR EDWARD HARDING (DOMINIONS OFFICE)

to

SIR HERBERT STANLEY (GOVERNOR OF SOUTHERN RHODESIA).

MY DEAR STANLEY, Downing Street, S.W.1, 24th May, 1937.

Would you please refer to the second paragraph of my letter of the 4th February, 1936*, regarding the institution of a channel of communication between Salisbury and Lourenço Marques similar to that between Salisbury and Beira.

This matter has formed the subject of a good deal of correspondence between the Foreign Office and the Consular Officers concerned but it has now been agreed that all matters concerning the relations between Southern Rhodesia and Portuguese East Africa may be regarded as normally within the province of His Majesty's Consul at Beira, who will be able to communicate in appropriate circumstances with the Governor-General of Mozambique. Should, however, matters of urgency arise requiring representations to be made to the Governor-General in Lourenço Marques, or calling for statistical information more readily available at Lourenço Marques than at Beira, then you (or your Prime Minister) could communicate direct with His Majesty's Consul-General at that post. We understand that you will have already been informed of these proposals by the Consul at Beira.

Yours, &c.,

E. J. HARDING.

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* ~~R1481/143 not printed.~~ No. 204 in Dominions (South Africa) No. 6.

S. Rhodesia—(C.27711/'28). 24

NATIVE AFFAIRS

Recruitment of Native Labour from Nyasaland and Northern Rhodesia

R. 17/1. No. 116. PROOF.

HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA

to

DOMINIONS OFFICE.

[*Answered by Nos.* 117 *and* 118 *R. 1771.*]

SIR, South Africa House, W.C.2, 12th January, 1937.

On instructions from His Majesty's Government in the Union of South Africa, I have the honour to inform you that the Union Government have received representations from the Transvaal Chamber of Mines regarding the shortage of native labour which the mining industry is experiencing.

The Union Government are deeply concerned that the present expansion of the gold mining industry on which the prosperity of the country so closely depends should not be checked. They are therefore most anxious that His Majesty's Government in the United Kingdom should be acquainted with the importance which they attach to the negotiations recently opened by the Transvaal Chamber of Mines with the Governments of Nyassaland and Northern Rhodesia in regard to the employment on the gold mines of the Witwatersrand of natives from those territories.

Experience has shown that the provision existing to-day on the mines of the Witwatersrand for the housing, feeding, recreation and medical care of the native workers are such that no apprehension need be entertained about any deleterious effects on the health of these natives.

The engagement of these natives by the labour organization of the Chamber of Mines ensures their coming to the Rand and their repatriation on the expiry of their contracts under most favourable conditions, and will to a large extent replace the present illicit immigration into the Union of natives from these Territories. This illicit immigration is extremely difficult to prevent by administrative measures and many of the natives so entering are permanently lost to the Territories from which they came.

The undermentioned documents bearing on the position are enclosed:—

1. A memorandum by the Chamber of Mines explaining the present position of the gold mining industry in respect of the supply of native labour.
2. A copy of an Agreement concluded on 14th September, 1936*, between representatives of the Governments of Southern Rhodesia, Northern Rhodesia and Nyassaland and of the Transvaal Chamber of Mines.
3. A statement of the Union Department of Public Health regarding health conditions on the Witwatersrand gold mines in relation to the question of the employment of natives from north of latitude 22°.
4. A copy of a statement of the Transvaal Chamber of Mines regarding the mortality of tropical natives employed on the gold mines.

I am directed to add that His Majesty's Government in the Union of South Africa trust that His Majesty's Government in the United Kingdom will accord their sympathetic consideration to the negotiations which have been mentioned above.

I am, &c.,

C. T. TE WATER.

High Commissioner.

Enclosure 1 in No. 116.

NATIVE LABOUR SUPPLY.

The Witwatersrand gold mines at present employ nearly 300,000 Natives. Within the next five years they will require an additional 100,000 Natives, after allowing for all possible economies in Native labour, including a saving through the increased use of mechanical devices. It is common knowledge that the present sources of supply cannot maintain a labour force of 400,000 Natives: it will be necessary to obtain at least 70,000 from new sources. There is no hope of obtaining these if the mines are not permitted to establish a flow of Native Labour from Northern Rhodesia and Nyasaland without delay. Even in the case of a highly popular employment such as the Witwatersrand gold mines, it is necessary in any new source of supply to educate the Natives in the knowledge of such employment, a process which takes years.

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* No. ~~in Dominions No. 153~~. Enclosure 2 in No. 210 in Dominions (South Africa) No. 6.

S. Rhodesia—(C.27711/21). 24.

There are at present employed on the mines 1,600 Natives from the two territories. Those Natives on their return will prove an excellent advertisement, and a steadily increasing number of their fellows will wish to obtain employment on the gold mines.

The recent agreement between Nyasaland, Northern Rhodesia and Southern Rhodesia laid down the principle that Southern Rhodesia has a first call on the labour from these two territories. It has, however, been agreed between the three territories that, subject to the approval of the Secretary of State for the Colonies, the Witwatersrand gold mines shall be permitted to recruit in Barotseland a maximum of 10,000 Natives per annum, and in Nyasaland 2,000 Natives during 1937.

The conditions of employment of Natives on the Witwatersrand gold mines are much more favourable than any other employment open to the Natives of Northern Rhodesia and Nyasaland. The average rate of pay is 2*s*. 2*d*. per day, *plus* free quarters, rations and medical attendance, estimated to be worth to the Natives at least 1*s*. 6*d*. per day. Compensation for accident and disease is on a very liberal scale, and the mortality rate is low (a short statement on the mortality of Tropical Natives is attached hereto). Not only on the mines, but on the journey from and to their homes, the welfare of the Natives is most carefully studied.

The importance to Great Britain of the South African market, and the dependence of the Union on the continued prosperity and expansion of the Gold Mining Industry, require no emphasis. But the prosperity of the Gold Mining Industry is absolutely dependent on an adequate Native labour supply. It is therefore obvious that it is to the advantage of Great Britain that the Governments of Nyasaland and Northern Rhodesia adopt a sympathetic attitude towards the establishment of a regulated flow of Native labour from those two territories to the Witwatersrand gold mines. To the Natives themselves this would be most advantageous, as securing a market for their labour at least twice as remunerative as any other market open to them.

The objection that the two territories and Southern Rhodesia might be denuded of their labour to an injurious extent would be valid only if the proposed flow of labour is not controlled and an unlimited number of Natives permitted to be engaged by the Witwatersrand gold mines. The Gold Mining Industry is in a position to guarantee that only an agreed maximum number of Natives from these territories shall be employed, and further, that they will be returned to their homes on the completion of their period of engagement—which is a twelve months' contract with an option to the Natives to renew for a further twelve months.

The Gold Producers' Committee suggests that the facts above stated are of such great importance that they warrant immediate representation to the British Government by the Union Government. Any such representation should be accompanied by a statement that the Union Department of Public Health is satisfied that from the health standpoint the Natives in question can safely be employed on the mines.

Enclosure 3 in No. 116

THE HONOURABLE THE MINISTER OF PUBLIC HEALTH.

The experiment of employing natives recruited from north of latitude 22° has been kept under close observation by the Department of Public Health for the Union. This experiment has now been carried on for a period of 35 months during which an average number of 1,201 tropical natives has been employed. The accident rate amongst tropical natives has been 1·76 per 1,000 per annum as compared with an average of 2·68 per 1,000 in 1935 for all natives.

The mortality from disease was 11·76 per 1,000 per annum. This may be compared with the mortality amongst other classes of natives which for the 12 months ended 31st October, 1936, was as follows:—

Bechuanaland Non-Tropicals	11·85	per 1,000 per annum.
East Coast Natives	8·89	,, ,,
All Natives	6·66	,, ,,

I am satisfied that the death rate for tropical natives can now be kept at a low figure and that there is no reason whatever to fear that if importation be allowed on a large scale under the conditions at present existing, the death rates will be substantially higher than the figures obtained as a result of the experiment.

There is not, in the opinion of the department, any reason to believe that objection can now properly be raised on the grounds of public health to the waiving completely of the ban on the recruitment of natives from north of latitude 22°.

E. N. THORNTON,
Secretary for Public Health and Chief Health Officer for the Union.

Pretoria,
3rd December, 1936.

Enclosure 4 in No. 116

TRANSVAAL CHAMBER OF MINES.

NATIVE LABOUR—MORTALITY OF TROPICAL NATIVES.

At 31st October, 1936, the experiment with the employment of Tropical Natives on the mines had continued for a period of 34 months, the Natives employed being Nyasas, Barotse, Bechuanas and Southern Rhodesians. During that time the average number of Tropicals employed was 1,201, and the total number of deaths from disease (including 1 in W.N.L.A. Compound after discharge) was 40, giving a death rate of 11·76 per 1,000 per annum from disease. These deaths were due to the following diseases:—

Cause of Death.	*Deaths.*
Pneumonia (Bronco)	2
Pneumonia (Lobar)	16
Meningococcal Meningitis	4
Meningitis (other forms)	4
Tuberculosis of Lungs	1
Influenza with pulmonary complications	4
Measles	2
Enteric	3
Septicæmia	1
Carcinoma of Liver	1
All other causes	2
	40

On a comparison with the mortality amongst other classes of Natives, the following figures are interesting:—

Bechuanaland Non-Tropicals	11·85	per 1,000 per annum.
East Coast Natives	8·89	,, ,,
All Natives	6·66	,, ,,

These figures are for the twelve months ended 31st October, 1936.

In this connexion it may be recalled that 25 years ago the death rate from disease amongst tropicals was over 60 per 1,000 per annum, and amongst all Natives 30 per 1,000.

The accident death rate of the Tropical Natives was 1·76 per 1,000 per annum, as compared with an average of 2·68 per 1,000 in 1935 for all Natives.

Johannesburg,
November, 1936.

R. 17/1. No. 117. PROOF.

DOMINIONS OFFICE

to

OFFICE OF THE HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA.

[*Answered by No.* ~~R. 17/3~~ 119.]

SIR, Downing Street, S.W.1, 23rd February, 1937.

I am directed by Mr. Secretary MacDonald to refer to the High Commissioner's letter of the 12th of January* and to request you to inform the High Commissioner that the representations he submitted have been carefully and sympathetically considered. His Majesty's Government in the United Kingdom appreciate the great importance to the goldmining industry of the Union of an increase in the sources from which native labour may be drawn, and note from the memorandum of the Transvaal Chamber of Mines that it is estimated that it will be necessary to obtain at least 70,000 natives from new sources.

2. As regards both Northern Rhodesia and Nyasaland there has for some years now been no active recruiting of natives in these territories for work outside, although a small departure from that policy was made last year in Nyasaland in the case of the concession granted to the London and Blantyre Company. The position in both territories is that so many natives leave their home districts in search of work as to be causing grave social problems in some of the native areas and, if the effect of granting permission to the Witwatersrand Native Labour Association to recruit within these territories were to increase the numbers of Northern Rhodesia and Nyasaland natives absent from their homes, His Majesty's Government in the United Kingdom could not but view the matter with grave apprehension, as it is admittedly essential to preserve the social structure of native life.

3. It is understood that these difficulties were explained to the representatives of the Transvaal Chamber of Mines when the Johannesburg Agreement was negotiated. It seems obviously in the interests of all parties that the fullest enquiries into the health and conditions of labour of Nyasaland and Northern Rhodesia natives on the Rand and into the tribal conditions in Northern Rhodesia and Nyasaland resulting from the absence of so many able bodied natives away from their homes at any one time should be carried out before any new policy is adopted. In accordance with Clause 3 of the Johannesburg Agreement full enquiries are at present being made as to the native labour available in Northern Rhodesia and Nyasaland, and senior officers from both Northern Rhodesia and Nyasaland have visited Johannesburg, and are to submit reports on the conditions of the Northern Rhodesia and Nyasaland natives working there. It is not until the result of these enquiries is known that it will be possible to come to any final decision regarding recruitment on any large scale of Northern Rhodesia and Nyasaland natives for the Rand, but meanwhile the Secretary of State for the Colonies has informed the Governor of Northern Rhodesia that he approves of the experimental employment of 1,000 natives from Barotseland as specified in Clause 1 of the Johannesburg Agreement and that subject to the reception of satisfactory reports he will be prepared to consider the recruitment of 10,000 Barotse natives for the Rand in 1937. He has also informed the Governor of Nyasaland that he approves of the recruitment of a further 2,000 Nyasaland natives, making the total to be recruited in 1936 and 1937 4,000 in all, as specified in Clause 2 of the Johannesburg Agreement. Finally, he is informing the Governors of both Northern Rhodesia and Nyasaland that he approves of a further meeting early in 1938 of the signatories of the Johannesburg Agreement to consider the whole position in the light of the reports which will then be available. He also proposes to discuss the matter with the Governors of Northern Rhodesia and Nyasaland, who will shortly both be on leave of absence in this country.

I am, &c.,

H. N. TAIT.

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* No. ~~R. 17/1~~ 116.

S. Rhodesia—(C.27711/27). 24.

R. 17/1. No. 118. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINIONS AFFAIRS)

to

MR. C. T. TE WATER (HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA).

DEAR HIGH COMMISSIONER, Downing Street, S.W.1, 23rd February, 1937.

We have sent an official reply to your letter of 12th January* regarding the shortage of native labour which the Union mining industry is experiencing, but there are some points which I should like to put to you semi-officially. Sir Patrick Duncan called on the Secretary of State for the Colonies on the 8th February and as an ex-Minister of Mines and Governor-General designate asked for a free discussion on the possibilities of recruiting Northern Rhodesia and Nyasaland natives for the Rand.

Ormsby-Gore explained that there had been no recruitment of labour in Northern Rhodesia and Nyasaland for work outside these territories for many years, except for the experimental recruiting concession given last year by Sir Harold Kittermaster to the London and Blantyre Company. Hence, it would in any case involve a reversal of policy to permit active recruitment in these territories by the Witwatersrand Native Labour Association, a reversal of policy which would undoubtedly be called attention to in Parliament here.

Ormsby-Gore said he was quite prepared to contemplate that, but that the fullest co-operation from the Union Government would be essential in order to show that the change of policy was fully justified. He indicated the following as points which he would like the Union Government to consider:—

(1) Could the principle be accepted that the three territories of Southern Rhodesia, Northern Rhodesia and Nyasaland should have first call on their pooled labour resources? This principle could be applied only generally, but in effect it would mean that active recruiting for the Rand would not be pushed to the point where it would interfere with the present voluntary flow of labour from Northern Rhodesia and Nyasaland to Southern Rhodesia. (In the extreme north there is a voluntary flow of labour from Nyasaland and Northern Rhodesia into Tanganyika. The Northern Rhodesia and Nyasaland Governments could not be asked to take steps to stop that flow, but the Witwatersrand Native Labour Association might be allowed to compete for it.)

(2) Could it be agreed that the recruitment of natives from Northern Rhodesia and Nyasaland for the Rand would be limited to the numbers that the Administrations think the tribal life will stand, after allowing for local labour requirements and the customary voluntary migration to Southern Rhodesia? This would mean that after the agreed number had been recruited any others who applied would be refused.

(3) Could it be agreed that, if active recruitment by the Witwatersrand Native Labour Association were allowed, free transport from Northern Rhodesia and Nyasaland to the Rand would be provided, the cost not being recovered from the natives' wages? This is particularly desirable in view of the longer distance and greater cost of transport between Nyasaland and Northern Rhodesia, on the one hand, and the Rand on the other, and the large deductions on account of cost of transport which would otherwise be made from the wages of the Northern Rhodesia and Nyasaland natives. An additional reason for this point is that we hope that Northern Rhodesia and Nyasaland will adhere without reservations to the recent Geneva Convention on Recruitment of Native Labour; indeed Ormsby-Gore is particularly keen on this. If they do, they will be obliged to make it a condition of permitting recruitment of native labour in their territory for work outside that free transport to the place of work is provided.

(4) The fullest facilities would be expected for periodical reports on the health and conditions of Northern Rhodesia and Nyasaland labourers at the Rand, and for remittances to families and possibly for part payment of wages in the country of recruitment through appropriate machinery under Government supervision in Northern Rhodesia and Nyasaland.

(5) The Johannesburg Agreement was made between the three northern Governments and the Transvaal Chamber of Mines. Would it be possible for the Union Government to be a party to any further agreement, or at least how could it be made clear that the Union Government, and not merely the Transvaal Chamber of Mines, would be responsible for seeing that all provisions of any new agreement would be enforced?

We are sending a copy of this letter to Sir Patrick Duncan as he asked for a written record of the points which were made at the interview.

Yours, &c.,

MALCOLM MACDONALD.

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* No. ~~R. 17/1~~ 116.

S. Rhodesia—(C.2771 /26). 24.

R. 17/3. No. 119. PROOF.

OFFICE OF THE HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA

to

DOMINIONS OFFICE.

SIR, South Africa House, W.C.2, 10th May, 1937.

With reference to your letter of the 23rd February, 1937*, regarding the question of the recruitment of tropical native labour, I am directed by the High Commissioner to state for the information of Mr. Secretary MacDonald that the following points have been placed before the Transvaal Chamber of Mines:—

1. Acceptance of the principle that Southern and Northern Rhodesia and Nyasaland should have first claim on their pooled labour resources.
2. Agreement that recruitment of natives from Northern Rhodesia and Nyasaland would be limited to numbers that, in the opinion of the territorial Administrations, the tribal life will stand, after allowing for local requirements.
3. Free transport from Northern Rhodesia and Nyasaland to the Witwatersrand, in view of the long distances and the large deductions that would otherwise be made from wages (considerable emphasis is laid on this point).
4. Fullest facilities for periodical reports on health and conditions of employment of the natives recruited, remittances to families and, possibly, for a deferred wage system.
5. The Union Government to be associated with any further agreement and to assume responsibility for enforcement of provisions of any new agreement.

In requesting the views of the Chamber, it was intimated that His Majesty's Government in the Union of South Africa would be loath to join in any agreement following upon the negotiations being conducted or to assume responsibility for enforcement of the provisions of any new agreement, the more so as it is not a party to any existing agreement governing recruitment in the Protectorates.

The views of the Chamber of Mines may be summarized as follows, taking the points in the order given above:—

1. Although the need for augmenting existing labour resources is pressing, the Chamber feels a certain diffidence in commenting on a matter involving the domestic policy of the Governments concerned.
2. The Chamber, as party to any agreement concluded, would restrict recruitment so as to produce no more than the agreed maxima. If, however, the numbers offered by each of the two northern Governments should, in the Chamber's opinion, be too small to contribute beneficially to the total labour requirements of the mines, then the objects of the Chamber would be better served by the engagement of suitable natives who travel voluntarily to the Union in search of mining employment.

   The Chamber expresses the opinion that the problems created by the absence of the natives from their homes can be more effectively met when there is controlled engagement and repatriation than when there is indiscriminate emigration.

   Conditions on the Witwatersrand and during travel are claimed to be much more favourable than conditions offering in any similar form of employment open in Northern Rhodesia and Nyasaland.

   It is maintained that the fear of denudation of the territories of their labour resources might be justified only if there was an uncontrolled flow of labour.

   The Chamber hopes that a broad view will be taken on this point and that quotas will be fixed on a liberal basis. It desires to record that an early decision on the proposal to recruit 10,000 Barotses during 1937 would be helpful in enabling the necessary preliminaries to be undertaken.
3. The Chamber is prepared to accept the principle that mines shall bear the rail and/or steamer fares necessary to bring natives to the Union Border. Any small items of cost for motor transport would be borne by the natives as in the case of natives under the 1928 Mozambique Convention. The latter is due for revision in 1938 and any differentiation in principles at this stage would be prejudicial to the gold mining industry.

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* No. ~~R. 17/3~~. 117.

S. Rhodesia—(C.27711/25). 24.

4. (*a*) *Periodical reports on health and conditions of employment.*
Any necessary facilities will be provided.

(*b*) *Remittances to families.*
Under a system already in vogue Tropicals on the gold mines can transmit moneys with security and without cost to nominees through District Commissioners. They are encouraged to use these facilities and are freely doing so. A similar system will be maintained and extended if necessary.

(*c*) *Deferred Pay.*
Introduction of this system on the lines similar to the Deferred Pay conditions on the Mozambique Convention of 1928 is acceptable.

5. The Chamber is in agreement with the attitude of the Union Government, which is in keeping with the arrangements governing recruitment in Basutoland, Swaziland and Bechuanaland, and approved by the Union Department of Native Affairs.

As regards the views of the Chamber, the Union Government is in general agreement therewith and would approve of an agreement on the lines indicated thereby. The Union Government would not wish to be a party thereto, as intimated to the Chamber, although it can be emphasized that under the Bill to Amend the Immigration Laws of the Union, which is now before Parliament, Ministerial approval would be required for any scheme of introduction and repatriation of Central African native labour.

I am directed to refer specifically to one item discussed above, viz., the transport expenses of tropical natives travelling to the Witwatersrand gold mines. The Union Government has not adopted the Geneva Recommendation that employers of native labour should bear the cost of transport expenses and for reasons connected with the Mozambique Convention it feels that it cannot go over to a partial acceptance of that Recommendation in the case of British Central African natives. It must therefore accept the Chamber's attitude on this matter.

I am, &c.,

(Sgd.) E. K. SCALLAN,

for Secretary.

R. 17/11. No. 120. PROOF.

DOMINIONS OFFICE

to

OFFICE OF HIGH COMMISSIONER FOR THE UNION OF SOUTH AFRICA.

SIR, Downing Street, 2nd September, 1937.

With reference to your letter of the 10th May* last regarding the question of the recruitment of tropical native labour for work in the Union of South Africa, I am directed by Mr. Secretary MacDonald to state, for the information of the High Commissioner, that the Secretary of State for the Colonies has communicated a copy of your letter to the Governors of Northern Rhodesia and Nyasaland for their consideration.

2. It is observed that the Union Government would approve of an agreement being concluded on the lines proposed by the Transvaal Chamber of Mines, but would not wish to be a party to such an agreement.

3. Enquiry is being made of the Governor of Northern Rhodesia regarding the present position of the proposal that 10,000 natives of Barotseland should be recruited during the 1937 recruiting season, and a further communication on this point will be addressed to you upon receipt of the Governor's reply.

4. The Secretary of State for the Colonies has informed the Officers Administering the Governments of Northern Rhodesia and Nyasaland that, subject to the results of the experimental recruitment of the 1,000 Barotse already arranged being satisfactory, and to satisfactory arrangements being arrived at in regard to certain questions such as the payment of the cost of the transport of natives from their homes to the mines, and the maximum numbers to be recruited for labour in the Union, he has no objection to the terms suggested in your letter under reply being taken as a basis of negotiations at the meeting contemplated in Clause 3 of the Notes of Agreement dated 14th September, 1936, enclosed in Mr. te Water's letter of the 12th January, 1937†.

I am, &c.,

H. N. TAIT.

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* No. ~~R. 17/3~~ 119.

† No. ~~R. 17/4~~ 116.

S. Rhodesia—(C.27711/29). 24.

Working Copy

R. 17/117. No. 121. PROOF.

147

DESPATCH

from

SOUTHERN RHODESIA GOVERNMENT.

(Received 3rd May, 1939.)

(No. 143.) (Confidential.)

Salisbury, 25th April, 1939.

SIR,

I have the honour to enclose a copy of the record of proceedings*, as agreed to by the several parties, of the inter-territorial Conference held here on the 5th and 6th February between the Governor of Northern Rhodesia, the then Acting Governor of Nyasaland and the Prime Minister of this Colony, with myself in the Chair.

2. You will see that on this occasion the Conference confined itself to the discussion of the subject of migrant native labour, as affected by the so-called Salisbury Agreement of 1936 between the three Governments, and that, as a proposal by the two Northern Governments to increase the number of their natives recruitable by the Witwatersrand Native Labour Association was not acceptable to Mr. Huggins, that proposal, if pressed, would necessitate recourse to the arbitrament of the Secretary of State for the Colonies in terms of section 3 of the Salisbury Agreement.

3. Such an appeal to Mr. Secretary MacDonald has been made in confidential despatches addressed to him by Mr. Abraham on the 18th February* and by Sir John Maybin early in March†—(the precise date was not inserted in the copy furnished to my Government). You are, I understand cognizant of the contents of those despatches, and copies of them are in my Ministers' possession.

4. The observation of my Ministers are embodied in a Minute, of which I have the honour to enclose a copy for communication to the Secretary of State for the Colonies. The claims on Ministers' time by the exigencies of the recent General Election have caused some delay in the preparation of the Minute.

5. Copies of this despatch and its enclosure are being forwarded to the Governors at Lusaka and Zomba.

I have, &c.,

H. J. STANLEY,

Governor.

Enclosure in No. 121.

MINUTE.

Prime Minister's Office, Salisbury, 20th April, 1939.

MINISTERS have the honour to refer His Excellency the Governor to the confidential despatch of the 18th February last from the Acting Governor of Nyasaland and the confidential despatch of March last from the Governor of Northern Rhodesia, both addressed to the Secretary of State for the Colonies, on the subject of the Salisbury Agreement on migrant native labour.

2. As it was impossible for MINISTERS to agree to the proposals that the quota of natives which the Witwatersrand Native Labour Association are permitted to recruit should be raised in the case of Nyasaland from 8,500 to 15,000 and in the case of Northern Rhodesia from 1,500 to 5,000, the Governors of those territories have submitted the interpretation of the Salisbury Agreement raised by these proposals to the Secretary of State for the Colonies for his arbitrament. MINISTERS have the honour to request that His Excellency may be pleased to cause the following observations on the proposals to be transmitted to Mr. Malcolm MacDonald.

3. The basis of the Salisbury Agreement was that the requirements of the three territories should have first call upon their available supplies of labour. Since the introduction of passports under clause 2, Southern Rhodesia has experienced an acute shortage of labour. The following figures clearly indicate the effect on the inflow of labour from

* Not printed here.

† R. 17/114: not printed.

Southern Rhodesia—(C.37791/35). 24.

the northern territories of the passport system which was introduced on the 1st March, 1938. Immigrants from:—

	Northern Rhodesia.	*Nyasaland.*
1934	26,417	43,976
1935	25,779	36,596
1936	25,231	29,868
1937	28,799	42,598
1938	12,449	33,580

In view of this position MINISTERS cannot agree that the requirements of this Colony are satisfied.

4. Although it is contended that there is a surplus of available labour of 8,500 and 93,000 in Barotseland and Nyasaland respectively, MINISTERS are aware that the Convention of Associations in Nyasaland have put before their Government "the very serious position which exists in certain districts in regard to labour supply". Recruitment has been prohibited in the southern districts of Nyasaland. The Governor of Northern Rhodesia in his despatch intimates (paragraph 4) that the Native Industrial Labour Advisory Board "would almost certainly object to a considerable increase in recruiting and facilitation thereof (for Southern Rhodesia) by a reduction in charges while no restriction was put on the voluntary flow of labour". Finally one of the reasons officially advanced by Northern Rhodesia for the serious check in the flow of labour from that Colony was the shortage of the labour supply in that territory. In these circumstances MINISTERS feel it unreasonable that they should be asked to agree to an increase in the quotas for the Rand.

5. A further point in connexion with the assessment of the available surplus in the northern territories is the interpretation of "available". MINISTERS submit that this means natives who are able and willing to leave their homes to work. It is possible that the figures arrived at by officials of the two territories as the available surplus are based on an accurate census of the male population. This is of little avail however, when this Colony is faced with an acute shortage here, evidence of a shortage in Northern Rhodesia and Nyasaland, and the fact that the Witwatersrand Native Labour Association cannot obtain their full quota despite intensive propaganda.

6. In considering the relation of the quotas to the available supply of labour, MINISTERS would point out that the actual figures of the quota do not represent the number of natives rendered unavailable to Southern Rhodesia. When the number necessary to replace wastage is considered in addition to those at home for the periods of rest indispensable for their physical, moral and social welfare to be maintained, MINISTERS contend that not less than two to three times the number of the quota are involved.

7. A further consideration is the number of natives, at present many thousands, entering the Union of South Africa clandestinely. This migration is, of course, quite beyond the control of the Transvaal Chamber of Mines or any other recruiting agency and MINISTERS cannot accept the argument put forward by the Acting Governor of Nyasaland that an increase in the Rand quota would result in those natives who now go clandestinely being recruited under contract. MINISTERS have had abundant evidence that natives prefer free labour, a fact which is borne out by the difficulty being experienced by the Witwatersrand Native Labour Association in recruiting their full quota. An increase in the quota must inevitably lead to more intensive recruiting, increased propaganda and consequently a danger of increased clandestine migration.

8. Originally the quota of 10,000 for Northern Rhodesia was agreed to by MINISTERS upon the statement by Sir Hubert Young that there was an available surplus of 30,000 in Barotseland. When the Northern Rhodesia Government had decided to reduce their quota to 1,500, MINISTERS agreed to the Nyasaland quota being raised to 8,500. It now appears that the estimated surplus in Barotseland is only 8,000. MINISTERS of course cannot consider the quotas for the two territories separately. The labour requirements of this Colony must be regarded as a whole and any reduction in labour supply of one territory could only be agreed to if offset by an increase in the other.

G. MARTIN HUGGINS

R. 17/140. No. 122. **PROOF.**

TELEGRAM

to

SOUTHERN RHODESIA GOVERNMENT.

(Sent 11.55 p.m., 19th August, 1939.)

No. 56. Confidential. Your despatch No. 143 of 25th April*. Native Labour. Following is text of telegram from Secretary of State for Colonies addressed to Governors of Northern Rhodesia and Nyasaland.

Begins.—1. I have now discussed with Prime Minister of Southern Rhodesia question of quotas for recruitment of Northern Rhodesia and Nyasaland natives by the Witwatersrand Native Labour Association on which Salisbury Conference last February failed to reach agreement.

2. Agreed record of discussion follows by early mail; but, as I gather that meeting of Standing Committee on Migrant Labour has been arranged for 22nd August at Salisbury, I am notifying you now of my decisions.

3. Quotas for Witwatersrand Native Labour Association should be regarded as fixed, until further notice, on the basis indicated in the Memorandum enclosed with Boyd's semi-official letter of 22nd June viz. 3,500 in case of Northern Rhodesia (an ultimate increase to 5,000 being envisaged); and 8,500 in case of Nyasaland.

4. I undertook, however, in compliance with a request made by Mr. Huggins that, before consideration is given in future to the question of further increases in the quotas, a real attempt should be made to obtain accurate information as to the total available reservoir of labour in Northern Rhodesia and Nyasaland. I have to request therefore that you will furnish me with statistics showing, as accurately as possible, the numbers of able-bodied adult natives in [Northern Rhodesia] [Nyasaland] distinguishing between those engaged in production on their own account, those employed within [Northern Rhodesia] [Nyasaland] for wages, and those potentially available for employment outside the territory.

5. I also undertook in response to a further request by Mr. Huggins that I would invite your observations on his suggestion that His Majesty's Government in the United Kingdom should approach the Government of the Union of South Africa as to the desirability of introducing some system of control over the entry of emigrants from Southern Rhodesia, Northern Rhodesia and Nyasaland. I should be grateful therefore if you would let me have your views on this suggestion, together with any arguments that, in your opinion, might usefully be employed in so approaching the Union Government.

6. Mr. Huggins raised one further point. It was possible that Southern Rhodesia Government might find it desirable to ask that Governments of Northern Rhodesia and Nyasaland should confine grant of recruiting licences, so far as Southern Rhodesia was concerned, to persons or organizations approved by Southern Rhodesia Government. This might enable latter to exercise more effective control in dealing generally with labour matters in the Colony. He enquired whether such a request would be favourably considered: I replied that I thought that in principle such a proposal would commend itself to the Colonial Office.

7. A similar telegram is being sent to the Governor of [Nyasaland] [Northern Rhodesia].—*Ends.*

A copy of the memorandum referred to in paragraph 3 was enclosed in Harding's letter of the 19th June. A copy of this telegram is being communicated to your Prime Minister.

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* No. ~~R. 17/117.~~ 121

Southern Rhodesia—(C.37791/34). 24.

TRANSFER OF NORTHERN HALF OF BECHUANALAND PROTECTORATE TO SOUTHERN RHODESIA.

Working Copy.

Y. 12/1. No. 723. PROOF.

MR. G. M. HUGGINS (PRIME MINISTER, SOUTHERN RHODESIA)

to

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS).

[Answered by No. ~~Y. 12/1~~ 124.]

(Received 1st September 1937)

Salisbury, 24th August, 1937.

DEAR MR. MACDONALD,

Recently some gentlemen from Tati asked me if the Government here would take Tati into Southern Rhodesia. I gave them the same answer as that given by my predecessors, i.e., that we would welcome them.

I realize that with the Dutch asking for the Protectorates, no more can be expected at present, but I am writing to remind you that in 1934, when I was in London, I staked a claim on behalf of Southern Rhodesia to the Northern half of Bechuanaland as and when there was any repartition of Southern Africa.

We are very interested in North Bechuanaland because of the Railway. We do not want the Union Railways on our doorstep, and the agreement made with the Union by the Railways only refers to the Southern part. We also want to get nearer the Atlantic.

We have decided to expropriate the Imperial Cold Storage works at Bulawayo under the terms of our agreement; we shall form a public utility company until the cattle producers have a sufficient holding to take over the concern on a co-operative basis, and we hope to be able to assist Bechuanaland and Northern Rhodesia to export chilled meat if they so desire.

We expect to have a Cold Storage at Beira within two years. This is being done through private concerns, because, as you know, the Portuguese will not allow foreign Governments to own land in their Colonies.

Yours, &c.,

G. MARTIN HUGGINS.

S.A.H.C. Territory—(C.27130/161). 24.

Working Copy.

Y. 12/2. No. 124. PROOF.

MR. MALCOLM MACDONALD (SECRETARY OF STATE FOR DOMINION AFFAIRS)

to

MR. G. M. HUGGINS (PRIME MINISTER, SOUTHERN RHODESIA).

DEAR PRIME MINISTER, Downing Street, S.W.1, 30th September, 1937.

I have received your letter of the 24th August* in which you refer to the desire of Southern Rhodesia to take over the northern part of the Bechuanaland Protectorate in the event of any change in the administration of that Territory being decided upon.

You may be sure that we shall continue to bear in mind the views of your Government on this matter, as promised in my predecessor's despatch No. 180 of the 6th June 1935† which formed the reply to your official minute to Sir Herbert Stanley of the 26th March of that year.

A copy of this correspondence has been sent to Sir William Clark for his information. He will, I am sure, be interested to learn of the proposals with regard to the cold storage works at Bulawayo which you mention in your letter to me.

Yours, &c.,

MALCOLM MACDONALD.

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* No. ~~Y. 12/1~~. 123.

† No. ~~10991/225~~ 32 — Command (South Africa) No. 6.

S.A.H.C. Territory—(C.27130/162). 24.